# CANONICAL DECISIONS OF THE HOLY SEE

BY THE

Very Rev. STANISLAUS WOYWOD, O.F.M.

JOSEPH F. WAGNER, Inc.

54 Park Place New York City

Londox: B. HERDER

/Mfl ©betat:

Fr. BENVENUTUS RYAN, O.F.M.

Fr. THOMAS PLASSMANN, O.F.M.

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# PREFACE

Since the promulgation of the Code of Canon Law countless questions have arisen as to the precise meaning of certain words and phrases in the Canons and as to the exact limits within which various of the Canons are binding. Answers to these questions have been published periodically in the *Acta Apostoliccc Sedis* or (where the question affected only a restricted class of the faithful) in other authoritative ecclesiastical publications.

Furthermore, to give practical effect to the general laws of the Code, special Decrees and Instructions have been issued by the Holy See, emanating either directly from the Holy Father or from the Sacred Congregations.

As all these various Responsiones, Decrees and Instructions have thus become, as it were, an integral part of the Code, they must be given full consideration by anyone who wishes to understand the exact legislation of the Church on any particular point.

In the present work are assembled :

(1) all the Responsiones issued by the Pontifical Committee for the Authentic Interpretation of the Code;

(2) all the Responsiones of the Sacred Congregations on canonical matters concerning which the final decision rested with them ;

(3) all the Motu Proprios, Decrees and Instructions of the Holy Father or the Sacred Congregations whereby the legislation of the Code is put into practice;

(4) all the decisions of the Sacred Penitentiary or the Sacred Roman Rota in so far as these decisions elucidate the legislation of the Code.

These extensive materials have been carefully arranged under the pertinent Canons, and cross-references inserted under all other Canons which also might be elucidated by the documents in question. An exhaustive Index makes it more easy to refer to all the decisions given on each particular topic.

To avoid interruption of the sequence of the Canons and thus make the work more easy to consult, a number of the longer documents have been printed as Appendixes. References inserted under all the pertinent Canons direct the reader's attention to these documents.

THE AUTHOR.

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# CANONICAL DECISIONS OF THE HOLY SEE

# BOOK I

## GENERAL RULES

### Canon 1

A Decree of the Sacred Congregation of Seminaries and Universities, August 7, 1917, ordered that the Code of Canon Law be adopted as the text-book of Canon Law in all ecclesiastical universities and schools of Canon Law. The disposition of the subject matter of Canon Law, as contained in the books, titles and chapters of the Code, is to be faithfully followed. If the professor desires the students to use some book as a help to the study of the Code, the book must be one that adapts itself to the order of subjects as given in the Code (Acta *Ap. Sedis,* IX, 439).

In matters of the internal forum Oriental Catholics are under the jurisdiction of the Sacred Penitentiary (see Canon 258).

The Oriental Churches are bound to observe the condemnation of books and other publications issued by the S. C. of the Holy Office (see Canon 1396).

### Canon 3

In so far as agreements with nations require the appointment of only natives to canonries, see Canon 404.

### Canon 6

The prohibition by the former law of all discussion as to whether the Chinese Rites are mere civil practices or superstitious religious rites, is not abolished but remains in force (Holy Office, July 13, 1930; *Acta Ap. Sedis,* XXII, 344).

The precepts of the Holy See with regard to Modernism are not abrogated by the Code (see Canon 1406).

## Canon 10

What is to be said concerning a marriage contracted before the Code became law, and which was rendered invalid by an impediment which has been abolished by the Code? Does such a marriage become valid by the very promulgation of the Code, or does it need a dispensation, *sanatio,* etc., even after the promulgation of the Code?

*Answer:* They are not automatically validated by the promulgation of the Code, but need a dispensation, *sanatio,* etc. (Committee, June 2-3,1918; *Acta Ap. Sedis, X,* 346).

Both betrothal and marriage are governed by the law in force at the time the contracts were made (see Canon 1017).

## Canon 12

For decision regarding obligations of children who are not yet seven years old, but who have reached the use of reason, see Canon 859.

## Canon 14

In places where the Lenten Abstinence has been transferred from Saturday to Wednesday *peregrini* may observe it on either day, provided they avoid scandal (Sacred Congregation of the Council; *Acta Ap. Sedis,* XVI, 94).

*Peregrini* are bound by local reservations (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

## Canon 17

The *Motu Proprio* of Pope Benedict XV, September 15, 1917, established the Committee for the Authentic Interpretation of the Code. The Sacred Congregations shall not issue new General Decrees unless the needs of the Universal Church call for them. Otherwise the Sacred Congregations have the duty to urge the faithful observance of the Code, and to issue Instructions by which the precepts of the Code are explained and their observance made effective. If a new General Decree becomes necessary and it disagrees with the Code, the Sacred Congregation shall inform the Supreme Pontiff of the fact. After the Supreme Pontiff has approved the Decree, it shall be submitted to the Sacred Congregation of the Council, which shall adapt the Decree to the form of the Canons of the Code. If the new Decree differs from some precept of the Code, the Sacred Congregation of the Council shall indicate what Canon is to be replaced by the new Decree; if the Decree covers a point on which the Code is silent, the Sacred

Congregation shall indicate where the new Canon is to be placed, and it shall get the number of the Canon immediately preceding with the annotation *bis, ter,* etc. *(Acta Ap. Sedis,* IX, 483).

The Committee for the Authentic Interpretation of the Code declares that it shall answer only questions proposed by Ordinaries, major religious superiors of orders and congregations, etc., and not those proposed by private individuals unless they propose them through their own Ordinary (December 9, 1917; *Acta Ap. Sedis,* X, 77).

May doubts of minor importance or which do not offer much difficulty be answered by the President of the Committee for the Authentic Interpretation of the Code? *Answer:* Yes (Committee, December 9, 1917; *Acta Ap. Sedis,* XI, 480).

## Canon 22

Regarding obligation of strangers to obey particular laws, see Canon 1252, e.

## Canon 33

The reckoning of the hours of the day by the so-called zone-time (one hour's difference with every 15 degrees of longitude) may be employed for the purposes mentioned in Canon 33, § 1, provided that time is recognized as legal time in the respective country (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 582).

## Canon 34

Canon 34, § 3, n. 3, is to be applied in reckoning the year of noviti-ate (see Canon 555).

## Canon 56

For decision regarding right of Religious to decline an induit of secularization or a dispensation from simple vows, see Canon 638.

## Canon 66

For list of the General Faculties granted to bishops, see Appendix I.

# BOOK II

## CONCERNING PERSONS

### Canon 87

In accordance with this Canon, a non-Catholic cannot act as plaintiff in matrimonial cases (see Canon 1971).

### Canon 93

Can a woman maliciously deserted by her husband acquire, in accordance with Canon 93, a proper domicile distinct from that of her husband? Answer: No, unless she has obtained from the ecclesiastical judge perpetual separation or separation for an indefinite period of time (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 526).

### Canon 98

*(a)* The Apostolic Delegates may grant permission to people, except priests, to change from an Oriental Rite to the Latin or vice versa, which faculty is reserved to the Holy See by Canon 98, §3 (Sacred Congregation for the Oriental Church, December 6, 1928, *Acta Ap. Sedis,* XX, 416).

(b) Regarding the case of a child baptized by the minister of another Rite, sec Canon 756.

(c) Concerning the collecting of alms and Mass stipends by Oriental clerics in dioceses of the Latin Rite, the Sacred Congregation for the Oriental Church has the exclusive right to grant them permission. The Sacred Congregation follows the rule never to permit them to collect money or Mass stipends, no matter for what reason the priests ask to get money. If there is an exceptional case in which the Sacred Congregation is willing to give permission, the permission will be restricted to certain specified places and the Sacred Congregation itself will notify each individual bishop. This permission gives the priest no right to collect against the will of the bishop (January 7, 1930; *Acta Ap. Sedis,* XXII, 108). The same rules are urged again in an Instruction of the Sacred Congregation for the Oriental Church, September 26, 1932 (XXIV, 344).

(d) The Greek-Ruthenian Catholics in the United States were organized under two bishops of that Rite, one at Philadelphia for Greek-Ruthenians from Galitia, the other at Homestead, Pa., for the Greek-Ruthenians from the Russian Carpathian Mountains, from Hungary and Jugoslavia. These bishops are directly under the jurisdiction of the Apostolic See and have ordinary jurisdiction over all the Greek-Ruthenian Catholics who stay permanently or temporarily in the United States. The people of the Greek-Ruthenian Rite may follow the feasts and fasts of the place where they live. If the same day of obligation is kept in both their own Rite and the Latin Rite, they must attend Holy Mass in the church of their own Rite, if there is one in the place; otherwise they do not fulfill the obligation. Marriages between Greek-Ruthenians and those between a Greek-Ruthenian and a person of some other Rite must be contracted according to the "Ne Temere," and consequently in the Rite of the woman and in presence of the pastor of the bride. Dispensations in marriages of mixed Rites are to be got from the Ordinary of the woman. The children must follow the Rite of the father. If there is no priest of the father's Rite in the place, or if in emergency the child has to be baptized by a priest of another Rite, the child nevertheless belongs to the Rite of the father. Illegitimate children follow the Rite of the mother. During the term of the marriage the wife may follow the Rite of her husband (Sacred Congregation for the Oriental Church, March 1, 1929; *Acta Ap. Sedis,* XXI, 152).

The same regulations were made for the Greck-Ruthenians in Canada, who have one bishop of their own Rite with ordinary jurisdiction; his residence is to be in the City of Winnipeg. The faithful of the Greek-Ruthenian Rite are urged to attend Mass in their own churches, but they fulfill the obligation in any Catholic church. The same rule is to apply for the Greek-Ruthenians in the United States, modifying the former rule (Sacred Congregation for the Oriental Church, May 24 and June 11, 1930; *Acta Ap. Sedis,* XXII, 346).

## Canon 106

The precedence among suffragan bishops in Provincial Councils and meetings is to be determined by the day on which a bishop was raised to the episcopal dignity by the Holy See, and not from the day of promotion to the suffragan see (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 582).

# PART I

## CONCERNING THE CLERGY

### Canon 111

Ordination for service in another diocese effects incardination in such diocese (see Canon 956).

### Canon 126

For Encyclical on Spiritual Retreats, see Appendix II.

### Canon 130

Are pastors and parochial vicars of religious organizations obliged to undergo the examination, spoken of in Canon 130, before the Ordinary or his delegate, if they have made the examination before the religious superior or his delegate, spoken of in Canon 590? Answer; No.

If the religious superior neglects to subject the pastors and parochial vicars to the examination spoken of in Canon 590, can the local Ordinary' force those religious to make the examination before himself or his delegate in accordance with Canon 130? Answer; Recourse must be had in that case to the Sacred Congregation of Religious (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 526).

The yearly examination of junior priests does not suffice for appointment to pastorate (sec Canon 459, b, vi).

### Canon 135

Does a bishop who is about to celebrate a Pontifical Mass satisfy the obligation of reciting the Canonical Hour (Tierce or None) by the recital of the prayers prescribed by the *Cwrcmonialc Episcoporum? Answer:* Yes, he does satisfy it.

Docs the bishop satisfy the respective obligation of the Divine Office when he pontificates at Vespers or Lauds, in processions on the days of the major or minor litanies, and does not recite those parts of the office which, according to the *Cwremoniale Episcoporum,* the choir or chanters have to recite or sing? *Answer:* No, he does not

satisfy the obligation, unless he is actually prevented from the recitation of those parts by some ceremony demanded by the rubrics of the *Caremoniale Episcoporum* [Sacred Congregation of the Council, April 12, 1919, and July 9, 1921 *(in Causa Linciensi); Acta Ap. Sedis,* XIII, 477].

## Canon 136

Concerning the clerical dress, the Holy See permits the bishops to make the necessary regulations for places where the priests cannot wear the cassock outside the parish house, church and parish property, but they must wear clothes which are truly ecclesiastical and distinguish the clergy from the lay people, and those clothes they must wear at all times, even during the summer vacation. In church and at the administration of the Sacraments they must wear cassock and Roman collar; otherwise pastors and rectors of churches should not permit them to say Mass (Sacred Congregation of the Council, July 28, 1931; *Acta Ap. Sedis,* XXIII, 336).

Does the Code of Canon Law give liberty to all the secular clergy to wear a beard, and have the bishops authority to enforce the prohibition thus far in vogue in their respective dioceses? *Answer: No,* the Code does not grant such permission (cfr. Canon 136), and the bishop may forbid it (Sacred Congregation of the Council, January 10, 1920; *Acta Ap. Sedis,* XII, 43).

## Canon 138

Can the bishop forbid the clerics of his diocese to engage in quiet hunting under *ipso facto* suspension? *Answer:* No, he cannot, unless there are grave and special reasons for such a severe prohibition. According to the former law, the Ordinary can absolutely forbid his clerics even the quiet hunting, and this authority is not restricted by the Code, but grave and special reasons must exist if he wants to enforce his prohibition with so severe a penalty. This decision was given in an appeal of the priests of the Archdiocese of Gncsen-Posen, Poland, against the prohibition of the archbishop to his clergy to go hunting under pain of suspension *ipso facto.* The Sacred Congregation of the Council declared that "quiet" hunting is *per se* permitted to the clergy, and becomes unlawful only through scandal or peculiar local circumstances. In the latter case penalties may be inflicted with the prohibition of hunting, but not suspension *ipso facto.* The hunting forbidden by Canon Law is the so-called *venatio clamorosa* (Sacred Congregation of the Council, June 11, 1921; *Acta Ap. Sedis,* XIII, 498).

In answer to the question whether the Ordinaries may permit

## Canon 138 *(Continued)*

their clergy to join the *Rotary Club,* the Holy See answered that it is not expedient (Sacred Consistorial Congregation, February 4, 1929; *Acta Ap. Sedis,* XXI, 42).

## Canon 139

(«) Are the permissions required by clerics in virtue of the Decree "Docente Apostolo," November 18, 1910 *(Acta Ap. Sedis,* II, 910), to be obtained from the Holy See or from their own proper Ordinary? Answer; From their own Ordinary (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 344). Canon 139 deals with various secular offices and positions which clerics should not hold, and specifies the cases in which the Holy See and the Ordinary respectively may grant permission to clerics to accept such offices.

*(b)* Can Cardinals, archbishops, and residential or titular bishops, in accordance with Canon 139, § 4, accept the office of senator or representative or compete for it? Answer; No; but, if by the law of the country Cardinals, archbishops, or bishops are by the very fact of holding these ecclesiastical positions entitled to a seat in the senate or in the house of representatives, and the Holy See has in any way approved of such laws, they may without special permission of the Holy See fill these offices provided they attend to their ecclesiastical duties through the vicar-general or some one else. In any other case, however, the Cardinals, archbishops, and residential or titular bishops need the permission of the Holy See to hold those secular offices.

Should local Ordinaries rather discourage than encourage priests who desire to compete for the office of representative? *Answer:* They should rather discourage them from seeking office (Committee, April 25, 1922; *Acta Ap. Sedis, XIV,* 313).

(c) The local Ordinary lias the right and duty to forbid ecclesiastics by precept to engage in political activities when their actions are not in harmony with the instructions of the Holy See, and the Ordinary has the right to punish them according to the rules of Canon Law if they violate his precept and having been admonished still refuse to obey (Sacred Congregation of the Council, March 15, 1927; *Acta Ap. Sedis,* XIX, 138).

## Canon 140

The Decree which forbids priests to promote or favor dancing, and to be present if dances are arranged by laymen, was passed specially for the United States. In many places in the U. S. the pastor and people together arranged entertainments in the parish hall for the

purpose of raising funds for the parish as well as of affording recreation for the Catholic people and their friends under the supervision of the priest. Dances were one of the forms of entertainment. The Third Plenary Council of Baltimore forbade dinners with balls for the purpose of raising money for the parish or other good cause. It seems that the plain dances were not considered in many dioceses to be against the prohibition of the Council of Baltimore. The Decree of March 3, 1916, forbids the priests to promote or favor *(ne promoveant, ne foveant)* dances for the benefit of the parish, and forbids the priests to be present if they are arranged by laymen (Sacred Consistorial Congregation, March 31, 1916; *Acta Ap. Sedis,* VIII, 147).

Canon 140 forbids clerics to be present at shows, dances and celebrations which are unbecoming to the clerical state or where their presence causes scandal. Inasmuch as a particular law which is not contrary to the Code is not abolished by the Code (cfr. Canon 22), the Decree of March 31, 1916, on dancing remains in force, for though Canon 140 forbids the presence of the priest at dances and other amusements only when they are unbecoming to the clerical state or cause scandal, the aforesaid Decree cannot be considered contrary to the Code; it is rather an extension of the prohibition contained in the Third Plenary Council of Baltimore.

A declaration of the Sacred Consistorial Congregation to an Ordinary in the United States rules that dances may not be promoted by the priests for the benefit of the parish, even if they are held during the day or the early part of the night, and even when they are not connected with banquets or picnics (December 10, 1917; *Acta Ap. Sedis,* x, 17).

## Canon 143

(a) The Sacred Congregation of the Council states it has ascertained that some priests who go to the mountains or seashore or spas to recuperate their health just barely discharge the duties of their state and devote the rest of the day to vain conversation and to attending theatres, dances, motion picture shows, and other spectacles which ill become the dignity of the priesthood. Some even go so far as to discard their clerical garb, and don lay dress with a view to attain greater freedom. Wherefore, the Sacred Congregation issues the following instructions to all Ordinaries:

1. Priests who desire to leave their own diocese for some time to recuperate their health, shall ask the permission of their Ordinary, specifying the dates of their departure and return and also the places where they intend to stay.
2. The Ordinaries shall inquire carefully into the reasons for which

Canon 143 *(Continued)*

the priests ask permission to leave their diocese, and they shall also diligently consider the character and mode of life of the applicants, and grant this permission with great caution.

3. They shall also insist that their priests shall invariably choose inns or hospices which may without scandal be patronized by the ministers of God.
4. The Ordinaries shall forward as soon as possible the names of these priests to the Curia of the diocese in which the latter are staying, and shall specify the time of absence allowed and the inn or house in which they are guests.
5. Moreover, upon arrival at their destination, the priests shall present themselves at the Curia of that place as soon as possible, or (if the circumstances prevent this) shall approach the Vicar-Forane or at least the pastor, who shall in turn report to his own Ordinary.
6. (a) The Ordinaries of places where priests are accustomed to recuperate their health, shall keep careful and attentive watch over the visiting priests, either personally or through priests entrusted with this special duty; and they shall not permit these visiting priests to celebrate the sacred rites, unless they shall have obeyed the precepts given above.

   (b) In order that these priests may be more easily kept in obedience, the Ordinaries shall appoint appropriate penalties for those who shall give any scandal, or who shall do anything whatever that is unworthy of the sacerdotal office.

   (c) They may even threaten such priests with suspension to be incurred *ipso facto,* if they attend theatres, motion picture shows, dances and other profane spectacles of this kind, or if they lay aside the clerical garb.

   (d) Finally, they may inflict on these ecclesiastics the penalties imposed by the Sacred Canons, if the priests do not obey such precepts and the other laws of the Church.

   (e) They shall make a careful report to the proper Curia of these ecclesiastics, and, if necessary, also to this Sacred Congregation.

7. In this matter, the vigilance of the Ordinaries should be extended also to religious, and, if the latter should be delinquent, they shall decree punishments in accordance with the Sacred Canons, and report the offenders to their major Superiors (July 1, 192G; *Acta Ap. Sedis,* XVIII, 312-13).

(h) For Decrees regarding the emigration of priests from Europe and lands bordering on the Mediterranean Sea, sec Appendix III.

## Canon 144

(o) Concerning priests teaching at secular universities and other schools, the Holy See ordains that: (1) they may not accept the position without the explicit consent of their own Ordinary; (2) the Ordinary may permit the acceptance of the position by those priests only who by their devout life and their knowledge arc a good example to the other professors in school and outside of it; (3) the proper Ordinary may allow his priest to accept a position in a school in another diocese, but the priest may be recalled at will of his Oλνη Ordinary or requested to leave by the Ordinary of the diocese where the school is located; (4) the proper Ordinary shall not allow his priests to accept a teaching position in another diocese without first informing the Ordinary of the place and getting his permission; (5) the priest of another diocese about to begin teaching shall without delay present himself to the Ordinary of the place, and shall during his stay in the diocese be subject to the Ordinary as though he was his own Ordinary; (6) the Ordinary of the place where the school is located may assign the priest to one of the churches of his diocese, order that a vicar-forane, pastor or other priest keep special watch over the teaching priest, or that the teaching priest inform him in what house and with whom he boards, and may, if he judge it necessary, order him to observe the common obligations of clerics, especially concerning attendance at diocesan conferences, order him to stay in a religious house pointed out by the Ordinary, forbid him to teach in a coeducational school or to teach girls privately, order him to help the pastor of the place with the instruction of the children and preach at Mass, and admonish, correct and, if necessary, punish the priest; (7) the local Ordinary shall yearly at the end of the school term report to the proper Ordinary on the life and character of the teaching priest; (8) if the priest leaves the diocese for a notable length of time, he shall notify the local Ordinary, and before he goes on his summer vacation he shall pay his respects to the local Ordinary. When ho returns to his own diocese, he shall present himself to his Ordinary and obey his orders faithfully (Sacred Congregation of the Council, Feb. 22, 1927; *Acta Ap. Sedis,* XIX, 99).

(b) Concerning the attendance of secular clerics at laical universities the Holy See rules that, without the permission of his own bishop, no secular cleric may attend such a university. The bishop is not permitted to send clerics to such a university before they have been ordained priests, and he should send those only who will be an honor to the Church and the priesthood, both by reason of their mental faculties and their holiness of life. If they are junior priests, they

## Canon 144 *(Continued)*

are not exempt from the yearly examinations prescribed by Canons 130 and 590, but should be examined more rigorously lest, while pursuing secular sciences, they should neglect ecclesiastical studies. After they have graduated from those universities, they must remember that they are obliged to obey their Ordinary and to serve the diocese just as other priests, and they may not without the permission of their bishop accept a professor's chair in the secular universities or any other office. If they disobey, they shall be punished, even with suspension. What is said concerning the secular clerics, applies also to the religious, including regulars; and what is here stated concerning the local Ordinary, applies to the major superiors of the religious organizations (Sacred Consistorial Congregation, April 30, 1918; *Acta Ap. Sedis,* X, 237).

## Canon 160

Concerning the Constitution of Pope Pius X, "Vacante Sede Apostolica," on the election of the Supreme Pontiff, the Holy Father, Pope Pius XI, by *Motu Proprio* decrees the following modifications:

(i) In order to give Cardinals who live at a great distance from Rome more time to get there for the election of the new Roman Pontiff, the ten days' interval between the death of the Pope and the commencement of the election proceedings is extended to fifteen days. Besides, the Supreme Pontiff grants the Sacred College of Cardinals leave to delay entrance into the Conclave for two or three days more, but, when eighteen days after the death of the Pope have elapsed, the Cardinals who are present in Rome must at once enter into the Conclave and proceed with the election of the Pope.

(ii) Though, according to Title II, Chapter II, 38, of the Constitution "Vacante Sede Apostolica," each Cardinal may have two attendants in the Conclave, either clerics or laymen, or one cleric and one layman, they may, if they prefer, take only one man into the Conclave, and he may be a layman.

(iii) According to Title II, Chapter V, 54, only one Mass is to be said on the first morning of the Conclave, and all the Cardinals are to attend that Mass and receive Holy Communion. Now, Pope Pius XI grants leave to each Cardinal to say Holy Mass, but, if any of them do not wish to say Mass, they are to receive Holy Communion at the Mass of the Conclave *(Motu Proprio* of Pope Pius XI, March 1, 1922; *Acta Ap. Sedis,* XIV, 145).

## Canon 180

In case postulation concurs with election (cfr. Canon 180, § 1) and the votes in the first three ballots cast are divided between a person who can be postulated only and a person who can be elected, and neither has obtained two-thirds of all the votes east, nor does the eligible person have the absolute plurality of votes but merely a relative plurality, is the eligible person elected on the relative plurality? Answer: Yes, in the third ballot he is elected on a relative plurality to the exclusion of the one postulated.

If, besides the one postulated, several persons who can be elected have received votes, is the eligible person who (in the third ballot) has received a relative plurality of votes elected? *Answer:* Yes, among those who can be elected that one is validly elected who has received a relative plurality of votes, not counting the votes cast for the one postulated (Committee, July 1, 1922; *Acta Ap. Sedis,* XIV, 406).

## Canons 189-191

May the Ordinary, in accordance with Canon 189, validly accept a resignation after the lapse of an entire month from the tendering of the resignation without a renewal of the same? *Answer:* Yes, he may, provided the person resigning has not revoked his resignation and notified the Ordinary of the fact before he accepts the resignation.

May the resigning person, in accordance with Canon 191, $ 1, revoke the resignation before it has been accepted? *Answer:* Yes, he may (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 526).

## Canon 199

Without a special faculty from the Ordinary, pastors cannot delegate jurisdiction for confession (see Canon 874).

## Canon 216

*(a)* With reference to parishes which were erected in dioceses while they were under the jurisdiction of the Sacred Congregation of the Propagation of the Faith, and Avhich were later on placed under the common law of the Church, various doubts arose as to the nature of these parishes and the rights and duties of the pastors. The Sacred Consistorial Congregation declared:

(i) From Canon 216 it is certain that the parts of the dioceses over which a rector has been appointed for the care of souls in his district are in future to be considered as parishes, and are to be called

Canon 216 *(Continued)*

such, reserving the name of quasi-parishes or missions for the districts into which vicariates and prefectures Apostolic are divided.

(ii) For the erection of parishes a decree of the Ordinary is indeed required, determining the boundary lines of the parish, its revenue for the conducting of the divine worship and the maintenance of the priest, but it is not necessary that the rector be irremovable; on the contrary, if there are just reasons, the removability may be declared in the document of erection of the parish, in accordance with Canons 1411, n. 4, 454, and 1438.

(iii) If the small number of the faithful, or a fluctuating Catholic population, or a complete lack of proper funds makes it inadvisable to erect some churches as parishes, they should be made subsidiary churches or chapels depending on and joined to the territory of some parish, until such time as they can be made independent parishes.

(iv) With reference to the endowment of new parishes one must keep in mind what is stated in Canons 1409, 1410 and 1415.

(v) When a parish has been erected as described above, the rector or pastor or administrator of the parish is obliged to apply Mass for the people of the parish on Sundays and holydays; the rectors of subsidiary' churches or chaplaincies are exempted from that obligation. If the burden is too great, recourse is to be made to the Holy See (Sacred Consistorial Congregation, August 1, 1919; *Acta Ap. Sedis,* XI, 346).

(δ) As some doubts remained as to the canonical status of parishes in the United States of America which were erected before the promulgation of the Code, the Committee for the Authentic Interpretation of the Code issued the following declarations:

(i) No special or formal decree of erection of a parish by the bishop is required.

(ii) It suffices for the erection of a parish if the Ordinary define the territorial limits and assign a rector to the people and the church.

(iii) With reference to the parishes established before the promulgation of the Code, those parishes became *ipso facto* canonical parishes, and no decree of erection is necessary, but only the fixing of the territorial limits and the appointment of a pastor to take charge of such territory (September 26, 1921; communicated to the Bishops of the United States by Letters of the Apostolic Delegation at Washington, November 10, 1922).

(c) With reference to language parishes, the question arose whether in countries where several official languages are in vogue, but which politically form but one state, the bishop needs an Apostolic Induit, in virtue of Canon 216, § 4, to erect a parish which is exclusively

destined for the people of a certain language, though that language be one of the official languages of the state, and though the parish has its own territorial boundaries? *Answer: Yes,* he needs the permission of the Holy See to erect such parishes (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 113).

(tZ) Several vicars and prefects Apostolic had proposed doubts to the Sacred Congregation of the Propaganda concerning the erection of quasi-parishes in missionary territories. To settle those doubts and to bring about desired uniformity of action, the following directions were given and ordered to be faithfully and diligently observed (Sacred Congregation of the Propaganda, July 25, 1920; *Acta Ap. Sedis,* XII, 331):

(1) It is the intent of the Canons of the Code that the territory of each vicariate and prefecture be divided into distinct parts, each with its own people, church and pastor (Canon 216, $2). Wherefore, vicars and prefects Apostolic must endeavor to get the mission entrusted to them into such a condition that the division into quasi-parishes can be made, and when they think that the territory is sufficiently developed to be thus organized, they should not omit to effect that organization.

(2) This division must not be undertaken hurriedly and inconsiderately, especially when it is forseen that the things necessary will be wanting (Canon 1415, § 3). Above all, in erecting quasi-parishes vicars and prefects Apostolic should have in mind the benefit of souls, and consider how far the Catholic Church has advanced in their territory. Therefore, the matter should be carefully examined, and the consultors should, in accordance with Canon 302, be requested to express their opinion, or even the chief missionaries gathered in council, as is stated in Canon 303.

(3) Nevertheless, it is not necessary or advisible to wait for the time when the whole vicariate or prefecture can be divided into quasi-parishes. It will be advisable to proceed slowly and gradually dividing one part of the territory into quasi-parishes and leaving the division of the rest of the territory to some future time.

(4) The erection of quasi-parishes is to be done by decree of the Ordinary in which the boundary lines are clearly described. Where this exact description is not practicable, it suffices to declare that the various Christian communities belong to certain quasi-parishes. In the decree it should also be stated which church is the principal one of the quasi-parish, and where the quasi-pastor is to reside.

(5) Two copies of this decree are to be made, one to be kept in the archives of the vicariate or prefecture and the other to be preserved in the acts of the quasi-parish.

## Canon 216 *(Continued)*

(6) As soon as the quasi-parish is erected, the quasi-pastor automatically obtains the rights and obligations laid down by the Code of Canon Law (cfr. Canons 451, § 2, η. 1, 454, 456, 459, 461, 1356, 306, 462 sqq.).

(7) In the quasi-parishes which have been erected Canons 1096 and 1095 must be observed; in places, however, where no quasi-parishes have been erected the missionaries are to be considered assistant priests to the vicar or prefect Apostolic, and they can therefore with the general permission granted by the Ordinary validly and licitly witness marriages.

(8) Furthermore, from the erection of quasi-parishes it follows that all churches, chapels and oratories within the territory of the quasi-parish are considered subsidiary to the main church, and they remain subject and dependent until they are made quasi-parishes or have been exempted from the charge of the quasi-pastor, according to Canon 464.

(9) After the territory has been divided into quasi-parishes, it will be highly advisable to divide the vicariate or prefecture into districts that comprehend several quasi-parishes, as has already been done in some vicariates, and that in this way vicariates forane be outlined and a more efficient government and administration be provided for the missions (Canons 217, 445 sqq.).

## Canon 246

The Sacred Congregations will not henceforth issue new "General Decrees" unless grave universal necessity requires it (see Canon 17).

## Canon 247

The Holy Office alone is competent in matrimonial cases between a Catholic and non-Catholic (see Canon 1962).

## Canon 248

For several decisions as to competence of this Sacred Congregation, see Canon 250.

## Canon 249

Are matters regarding the obligations attached to major orders or the validity of sacred ordination of religious to be decided by the Sacred Congregation of the Sacraments or by the Sacred Congregation of Religious? Answer: By the Sacred Congregation of the Sacraments, in accordance with Canon 1993 (Committee of Cardinals, November 27, 1922; *Acta Ap. Sedis,* XV, 39).

For the procedure in cases involving the validity of Sacred Orders, see Appendix XXII.

## Canon 250

Is the Sacred Consistorial Congregation or the Sacred Congregation of the Council competent in the following affairs: (a) with reference to priests, either students or professors, in laical schools; *(β)* associations of the clergy and their federation; (y) erection and suppression of one or another dignity in Chapters already constituted; (8) matters pertaining to the revenue and goods of the *mensa episcopalis? Answer: (a)* the Sacred Congregation of the Council; *(β)* the Sacred Congregation of the Council, but this Congregation shall not fail to ask information of the Sacred Consistorial Congregation with reference to associations and confederations of the clergy of entire nations; (y) and (δ) the Sacred Consistorial Congregation (Committee, November 13 and 27, 1922; *Acta Ap. Sedis,* XV, 39).

## Canon 251

(a) Does the faculty to concede to the members of religious organizations, men or women, a dispensation from the Eucharistic fast for the reception of Holy Communion pertain to the Sacred Congregation of the Sacraments or to the Sacred Congregation of Religious? *Answer: To* the Sacred Congregation of Religious (Committee, November 13 and 27, 1922; *Acta Ap. Sedis,* XV, 39).

(&) Do all questions which concern some right or advantage or interest of some religious family or of religious members pertain exclusively to the Sacred Congregation of Religious? *Answer:* Yes, in the sense, however, of Canon 251.

Does the concession (with due observance of the customary rules) of sanations and condonations for the past and reductions for the future in connection with the obligations attached to chaplaincies and other legacies, which, though not entrusted to the religious Order or family as such, are erected in or transferred to their churches, pertain to the Sacred Congregation of the Council or rather to the Sacred Congregation of Religious? *Answer:* Exclusively to the Sacred Congregation of Religious for the time that the administration and fulfillment of the obligations of legacies are entrusted to the religious.

What Sacred Congregation is competent to grant to the religious a dispensation for the reception of Sacred Orders, either in the case of lack of required age, or irregularity, or other conditions for the conferring of Orders, or the required studies before the various Orders? *Answer:* The Sacred Congregation of Religious.

What Sacred Congregation is competent to grant a dispensation to

## Canon 251 *(Continued)*

religious who, for reason of illness or for other reasons, are physically or morally prevented from saying Mass (e.g., if they cannot stand on their feet long enough to say Holy Mass)? *Answer:* The Sacred Congregation of Religious (Special Committee of Cardinals, March 24, 1919; *Acta Ap. Sedis,* XI, 251).

## Canon 253

By Motu Proprio Pope Pius XI created an Historical Department in the Sacred Congregation of Rites. The Holy Father declared that, in his opinion, the previous procedure in the Sacred Congregation of Rites in the cases of beatification of so-called historical causes should be reformed in such a manner as to correspond with the development of historical researches and modern methods. Historical causes are those in which no testimony of contemporaneous witnesses can be had, and no sure documents of depositions made in due form by eyewitnesses while they were alive.

(1) In historical causes of Servants of God, after the ordinary informative process and the research for writings have been completed in the usual manner, the research into the life, virtues, martyrdom, and ancient cult about which no contemporary testimony can any more be had shall be omitted in the Apostolic process.

(2) The parts indicated shall be under the special competency of the Historical Department which the Holy Father by the present Motu Proprio creates and joins to the other two departments already in existence in the Sacred Congregation of Rites.

(3) In order that the new Department may be able properly to do its work, (a) it shall be made up of a sufficient number of consultors who are specialists in historical studies and research; (b) at their head there shall be a general referee who shall direct the historical work; (c) the general referee, after the regular opening of the informative process, shall examine the parts of the process within his competency, make in person or order another expert to make further researches that he may deem necessary, obtain from the PostulatoPs office the originals or authentic copies of all the documents which he desires to study, and send them to the consultors of his Department; (d) the opinions of the consultors together with his own conclusions shall be forwarded by the general referee to the Cardinal Prefect of the Sacred Congregation of Rites and by him to the *Promotor Fidei* for examination and eventual objections and conclusions; (e) the documents and opinions spoken of above shall sene the consultors of the first section or department of the Sacred Congregation as a basis and starting point for their

own opinion; (f) the consultors of the Historical Department shall answer the objections and questions of the *Promotor Fidei* concerning the difficulties in the matter in which they arc competent; (g) the Historical Department is authorized to indicate what should be done to complete the research of the documents and of the writings pertaining to the cause (for the doctrinal examination of the documents and writings one should proceed according to the precepts of the Code of Canon Law and the established practice); (h) for reasons of evident utility the Historical Department shall be consulted in the reform, correction and new editions of the text of liturgical books (Motu Proprio of Pope Pius XI, February 6, 1930; *Acta Ap. Sedis,* XXII, 87).

## Canon 255

Pope Pius XI issued the following declarations concerning the competency and constitution of the Sacred Congregation for Extraordinary Ecclesiastical Affairs.

(1) Canon 255, which deals with the promotion through the Sacred Congregation for Extraordinary Ecclesiastical Affairs of qualified men to vacant dioceses whenever the civil governments must be consulted, is to be understood in such a way that this Sacred Congregation has authority to promote bishops also in those cases in which the governments are interrogated about difficulties (if there be any) of a political nature against the men chosen for that office.

(2) Among the Cardinals of the Sacred Congregation for Extraordinary Ecclesiastical Affairs, the following shall in future *de iure* belong to that Sacred Congregation: the Cardinal Secretary of the Holy Office, the Cardinal Secretary of the Consistorial Congregation, the Cardinal Chancellor of the Holy Roman Church, and the Cardinal Datary.

(3) The Cardinal Secretary of State shall be Prefect of this Sacred Congregation and to him will be forwarded, according to Canon 255, by the Supreme Pontiff matters that are to be submitted to the Congregation.

(4) On all members and officials of this Sacred Congregation is imposed the oath of the Holy Office to be taken in a special form (Letters of His Holiness Pope Pius XI, July 5, 1925; *Acta Ap. Sedis,* XVIII, 89).

## Canon 256

Does the concession of the faculty to alienate goods which belong to diocesan seminaries pertain to the Sacred Congregation of Seminaries and Universities or to the Sacred Congregation of the Council? *Answer:* To the Sacred Congregation of Seminaries and Universities (November 13 and 27, 1922; *Acta Ap. Sedis,* XV, 39).

## Canon 258

Matters of the internal forum concerning Oriental Catholics, even non-sacramental, belong to the jurisdiction of the Sacred Penitentiary (Sacred Congregation for the Oriental Church, July 26, 1930; *Acta Ap. Sedis,* XXII, 394).

## Canon 268

For a list of the faculties granted to Papal Nuncios, Delegates, etc., see Appendix IV.

## Canon 294

(a) Have vicars and prefects Apostolic the right in their own territory to be mentioned in the Canon of the Mass (cfr. Canons 294 and 308)? *Answer: No,* they do not have that right according to the Rubrics and Decrees, because, in accordance with the law still in force, in the Canon of the Mass—after the words "Antistite nostro"—is to be inserted only the name of the patriarch, archbishop, or bishop λνΐιο is the local Ordinary of the diocese in which the Mass is said (Sacred Congregation of Rites, March 8, 1919; *Acta Ap. Sedis,* XI, 145). This privilege is, however, usually included among the habitual faculties granted by the Holy See to missionary bishops.

(δ) Vicars and prefects Apostolic are allowed to appoint a vicar delegate after the manner of a vicar general (Sacred Congregation of the Propaganda, December 8, 1919; Acta *Ap. Sedis,* XII, 120).

## Canon 295

The Holy See has issued an Instruction defining the relations between the Ecclesiastical and Religious Superiors in missionary regions (see Appendix V).

## Canon 300

Canon 300, § 1, prescribes that the bishops, vicars and prefects Apostolic and the superiors of missions who are under the jurisdiction of the Sacred Congregation of the Propagation of the Faith make a complete report on the spiritual and material condition of their mis-
\ fi e years, as is prescribed by Canon 340 for all local Ordinaries. The Sacred Congregation of the Propaganda had published a list of questions to be answered by the Ordinaries in the mission districts, June 1, 1877. Since the Code has made some changes and rearrangements, the Sacred Congregation published a new list of questions to be answered in the report (Sacred Congregation of the Propagation of the Faith, April 16, 1922; Acta Ap. *Sedis,* XIV, 287 sqq.).

## Canon 309

Regarding the Vicar Delegate, see Canon 294, b.

## Canon 310

Pro-vicars Apostolic may during a vacancy issue dimissorial letters without waiting for full year of vacancy (Committee, July 20, 1929; *Acta Ap. Sedis,* XXI, 573).

## Canon 322

The confederated abbots of the Benedictine Order cannot get the abbatial blessing except by special mandate of the Apostolic See. At the request of the Abbot Primate, the Holy See grants the bishops a general mandate once for all. If the bishop of the diocese cannot give the blessing in person, or if he grants permission, or if the see is vacant, the blessing may be given by any bishop in communion with the Holy See. The *Pontificale Romanum* is to be strictly observed for the blessing or consecration of abbots (Letters Apostolic of Pope Benedict XV, June 19, 1921; *Acta Ap. Sedis,* XIII, 416).

## Canon 323

Abbots *nullius* who are not consecrated bishops cannot even with permission of the bishop validly consecrate churches outside their own territory (Committee, January 29, 1931; *Acta Ap. Sedis,* XXIII, 110).

## Canon 330

Concerning information about candidates for the episcopacy requested by the Holy See under the secret of the Holy Office, the Sacred Consistorial Congregation forbids a person who gets this request to reveal such orders to anyone, even in confession; and though he is permitted to gather information from others, he may not do so when there is even a remote danger of revealing his commission. If he gets information from others, in his answer to the Holy See he must make known the persons from whom he got information. The violation of these rules is punished with excommunication from which the Supreme Pontiff only, to the exclusion of the Cardinal Major Penitentiary, can absolve him; other penalties will be inflicted which the law orders imposed on persons who violate the secret of the Holy Office (April 25, 1917; *Acta Ap. Sedis,* IX, 232). For the Special Decrees regulating the manner of proposing episcopal candidates in the United States, Mexico, etc., see Appendix VI.

## Canons 337 sqq.

For a variety of decisions on episcopal rights, insignia and functions, sec Appendix VII.

## Canon 339

(a) What are the suppressed feasts spoken of in Canons 339 and 466, on which the bishops and pastors are obliged to say Holy Mass for the people? Answer; In this matter, no change has been made in the former discipline (Committee, February 17, 1918; *Acta Ap. Sedis,* X, 170).

Does the qjdigation of applying Mass *pro populo* continue on suppressed feasts which were formerly *ex iure* by particular precept (e.g., the Feast of St. Anthony of Padua in Spain, etc.)? Answer: Yes (Sacred Congregation of the Council, July 31, 1930; *Acta Ap. Sedis,* XXII, 521).

(b) The official list of the suppressed feasts on which, in virtue of Canons 339 and 466, the bishops and pastors must say Mass for the people, was published by the Sacred Congregation of the Council, December 28, 1919 (Acta Ap. *Sedis,* XII, 42). They are as follows:

1. Monday and Tuesday after Easter and Pentecost;
2. Finding of the Holy Cross, May 3;
3. Purification or Candlemas Day, February 2;
4. Annunciation, March 25;
5. Nativity of the Blessed Virgin, September 8;
6. Dedication of St. Michael, September 29;
7. Nativity of St. John the Baptist, June 24;
8. St. Andrew, Apostle, November 30;
9. St. James, Apostle, July 25;
10. St. John, Apostle, December 27;
11. St. Thomas, Apostle, December 21;
12. Sts. Philip and James, Apostles, May 1;
13. St. Bartholomew, iVpostle, August 24;
14. St. Matthew, Apostle, September 21;
15. Sts. Simon and Jude, Apostles, October 28;
16. St. Mathias, Apostle, February 24;
17. St. Stephen, Protomartyr, December 26;
18. Holy Innocents, December 28;
19. St. Lawrence, Martyr, August 10;
20. St. Sylvester, Pope, December 31;
21. St. Ann, Mother of the Blessed Virgin, July 26;
22. Patron of the country;
23. Patron of the city or town.

## Canon 340

With reference to the quinquennial report on the state of the diocese to be made to the Holy See by the bishops in accordance with the precept of Canon 340, the Sacred Consistorial Congregation published a lengthy formula or questionnaire which the bishops must employ in making said report (November 4, 1918; *Acta Ap. Sedis,* X, 487).

## Canon 347

See various decisions on precedence, etc., in Appendix VII, II-IV.

## Canon 349

(o) May the bishop habitually communicate to the priests of his territory the faculty of blessing with indulgences rosaries and other religious articles, spoken of in Canon 349, § 1, n. 1, *Answer:* No, he cannot (Sacred Penitentiary, July 18, 1919; *Acta Ap. Sedis,* XI, 332). Canon 210 lays down the general principle that the power of orders, both delegated and ordinary, cannot be delegated to others, unless the law or induit expressly grants the power of delegation.

(b) If the bishop cannot habitually delegate the faculties of the Code to priests of his diocese, as was declared by the Sacred Penitentiary, July 18, 1919, can he delegate them at least for individual acts (per *modum actus) I* Furthermore, has the vicar-general the faculties given to bishops by Canon 349, $ 1, n. 1? The Sacred Penitentiary answers "no" to both points (November 10, 1926; *Acta Ap. Sedis,* XVIII, 500).

(c) The phrase "ritibus ab Ecclesia præscriptis" in Canon 349, § 1, n. 1, permits the bishop to bless sacred objects with the mere sign of the cross when the liturgical books prescribe no special form of blessing (Committee, March 12, 1929; *Acta Ap. Sedis,* XXI, 170).

*(d)* With reference to the privileges, insignia, and functions of bishops, either when performing pontifical functions in their own diocese or in that of another bishop, or when several bishops take part in the sacred ceremonies, there are a number of liturgical difficulties which are now officially decided by the Sacred Congregation of Rites, November 26, 1919 *(Acta Ap. Sedis,* XII, 177). See Appendix VII.

(e) All bishops of the regular clergy (including monks and mendicants) are conceded in perpetuity the faculty of wearing the rochet under mozetta or mantclletum, even in Rome, so that in this respect their clothing is identical with that of secular bishops, save for the color and quality (Motu Proprio of Benedict XV, April 25, 1920; *Acta Ap. Sedis,* XII, 149).

(/) Canon 349, § 2, n. 2, does not forbid Ordinaries to grant indulgences to exempt religious or in their churches (Committee, December, 1930; *Acta Ap. Sedis,* XXIII, 25).

## Canon 352

For several decisions regarding the rights and privileges of auxiliary bishops, see Appendix VII, V.

## Canon 370

Has the vicar-general the right of precedence over the prior and pastor of the cathedral church, and has he the right of precedence over all dignitaries and canons of the cathedral church, when he assists in the choir vested with the robes of the canons? *Answer:* In both cases he has the right of precedence (Sacred Congregation of the Council, May 17, 1919; Acta *Ap. Sedis,* XI, 349).

If the vicar-general is not a canon, has he the right to a place in choir and in acts of the Chapter, and precedence over all canons and dignitaries? Answer: Yes, he has, in accordance with Canon 370 (Sacred Congregation of the Council, December 15, 1923; *Acta Ap. Sedis,* XVI, 371).

## Canon. 393

Have the beneficiaries and *mansionarii* a vote in Chapter, if they have that right merely by the statutes of the Chapter? *Answer:* No. After the promulgation of the Code beneficiaries who are not canons and the *mansionarii* are not members of the Chapter (cfr. Canon 393), and have no vote, if the right to vote was granted to them merely by the statutes of the Chapter (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 573).

## Canon 395

(a) Is the bishop obliged, in virtue of Canon 395, § 1, to set apart for daily distributions for cathedral and collegiate Chapters one-third of the revenue of said Chapters, though in these churches the choral distributions, however small they be, originated by Apostolic privilege? Answer: Yes (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

(b) In consideration of the needs of the churches, may the statutes of a Chapter with the approval of the Ordinary rule that the part of the income lost by those who violate the law of residence is to be applied either in whole or in part to the upkeep of the churches? Answer: The precepts of Canons 1475 and 2381 are to be observed.

Is the time of absence to be figured by days or by Canonical Hours, whenever days of illegitimate absence are required in order to constitute non-residence, and may proceedings be instituted against the

offender in accordance with Canons 2168-2175? *Answer:* The absence is to be computed by entire days, and the time of illegitimate absence is to be reckoned immediately from the time when the three months' vacation or any other legitimate vacation expires.

Are illegitimately absent persons obliged to make restitution of the proportionate part of the income before a declaratory sentence to that effect lias been issued against them? *Answer:* Yes (Sacred Congregation of the Council, July 10, 1920; *Acta Ap. Sedis,* XII, 357).

## Canon 396

(o) In accordance with Canon 396, § 1, is the conferring of dignities in Chapters reserved to the Apostolic Sec, if no prebend or benefice, or emoluments, or very meager ones are attached to the dignities? Answer: Yes, they are reserved (Committee, July 1, 1922; *Acta Ap. Sedis,* XIV, 406).

(b) Is the option spoken of in Canon 396 to be considered forbidden, even where it is in vogue by special Apostolic induit? Answer: Yes, it is forbidden (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

(c) Is the prohibition of the option introduced hy the Code to be understood to extend to dignities only, or also to all canonries? Answer: It extends to all canonries (Committee, November 24, 1920; Acto *Ap. Sedis,* XII, 573).

(d) Option, according to Canon 396, §2, is permitted only in those Chapters in which the founders of certain benefices of the Chapter have stipulated that option should prevail. These stipulations are called the "laws of the foundation." The term foundation of a benefice is to be understood, not of the erection of a benefice, which is at times also called a foundation (cfr. Canon 1435), but of the endowment of the benefice by a benefactor [Sacred Congregation of the Council (in *Causa Nicosiensi),* June 9, 1923; *Acta Ap. Scdis,* XVI, 432].

## Canon 397

In accordance with the common law (cfr. Canon 397, n. 4), the dignitaries and canons, in the order of precedence, have the right and duty to convoke the Chapter and to preside over it. The coadjutor of the "præpositus" does not have the right to preside over the meetings of the Chapter, unless the statutes of the Chapter state otherwise [Sacred Congregation of the Council *(in Causa Placentina),* December 11, 1920; *Acta Ap. Sedis,* XIV, 42].

## Canon 399

The canon theologian whose office it is to explain the Sacred Scripture to the people must possess a degree in this science, or at least the baccalaureate from the Biblical Institute (Pope Pius XI, Motu Proprio, April 27, 1924; *Acta Ap. Sedis,* XVI, 180).

The canon theologian who, at the wish of the bishop, teaches theology in a seminary outside the diocese, in which the seminarians of his own diocese arc educated, is excused from choir duty, and has the right to the daily distributions, though he receives a salary for teaching in the seminary, and is not obliged to provide with his own means a substitute who preaches at the cathedral church [Sacred Congregation of the Council (in *Causa TtapoUensi),* July 9, 1921; *Acta Ap. Sedis,* XVI, 397].

The canon theologian is not exempt from assisting the bishop when he celebrates solemnly (see Canon 416).

## Canon 403

As the term "conferre" or "collatio" in Canon 403 means free appointment to benefices, the right of presentation to canonries and other benefices of the Chapter is abolished, except where such right is based on the charter of the foundation of the benefice (Sacred Congregation of the Council, November 12, 1921, and June 10, 1922; *Acta Ap. Sedis,* XIV, 459).

The right of nomination or presentation for benefices and canonries in cathedral and collegiate churches exists by the law of Canon 403 solely where the charter of the foundation of a benefice grants that right. There is no foundation, unless a benefactor has endowed a benefice. If benefices are erected and endowed from the goods of other benefices, there is no founder properly so-called [Sacred Congregation of the Council (in *Causa Utinensi),* February 10, 1923; *Acta Ap. Sedis,* XV, 544].

In appointments to benefices and canonries in cathedral and collegiate churches, the respective Chapter in whose church the appointment is to be made must be consulted by the local Ordinary (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 582).

## Canon 404

Arc particular laws, privileges and customs which limit canonries to the natives of the country in which the church is situated, abrogated? *Answer:* Yes, unless the laws of the foundation rule otherwise, and subject to the precepts of Canons 3 and 1453, § 3—so that, if no worthy

and qualified native can be found the canonries must be conferred on worthy and qualified foreigners in accordance with Canon 404 (Committee, November 26, 1922; *Acta Ap. Sedis,* XV, 128).

## Canon 405

A canon who refuses to occupy during choir duty the stall or seat legitimately appointed for him by the bishop, forfeits the right to the choral distributions (Sacred Congregation of the Council, July 8, 1922; *Acta Ap. Sedis,* XV, 115).

## Canon 410

Canon 410, § 1, prescribes that each chapter of Canons shall have its own statutes, and that the old statutes shall be corrected to agree with the Code of Canon Law. The Sacred Congregation orders the bishops to give the chapters in their diocese six months within which they must draw up the statutes or amend the old ones. If they do not do so within that time, the bishop shall draw up the statutes and impose them on the chapter. The bishops shall inform the Sacred Congregation within a year from this date about the statutes and their observance (Letters of the Sacred Congregation of the Council, July 25, 1923; *Acta Ap. Sedis,* XV, 453).

## Canon 412

Canons are bound to assist the bishop in liturgical functions as provided in § § 1-2 of this Canon (Sacred Congregation of the Council, February 9, 1924; *Acta Ap. Sedis,* XVII, 245).

## Canon 413

In accordance with Canons 413 and 417, the hebdomadarian of tho Chapter has the obligation to say the Conventual Mass and to apply it for the benefactors. If, by centenary custom or legitimate prescription, the dignitaries of the Chapter say the Conventual Mass on certain feasts, the custom may be tolerated, so that the saying of the Mass and application for the benefactors devolves on the dignitaries (Sacred Congregation of the Council, March 13, 1920, and March 12,1921; *Acta Ap. Sedis,* XIII, 438).

## Canon 414

(a) Concerning the choir service of canons the Holy See declared: (1) that after the promulgation of the Code the privilege to say the

## Canon 414 *(Continued)*

office *per tumum (ius alternatives)* can be obtained only by explicit concession of Apostolic See, saving the regulations of the charter of a Chapter, not by custom or statute of the Chapter; (2) the canons who attend choir in the week when they were free from choir service cannot thereby supply the absences committed in their week of choir service; (3) since it has been declared (March 15, 1924) that a canon is to be considered absent for an entire day if he unlawfully absents himself from some of the Canonical Hours, the same rule is to be applied also to those canons absent from some Hour who have obtained the induit "pro diebus et horis" (Sacred Congregation of the Council, May 2, 1927; *Acta Ap. Sedis,* XIX, 415).

*(b)* Can the centenary and immemorial custom of Spain be upheld of sharing in the daily revenue of a benefice, though the beneficiary is present in choir only at one or two Canonical Hours within a natural or liturgical day? Answer: No (Sacred Congregation of the Council, July 10, 1920; *Acta Ap. Sedis,* XII, 357).

## Canon 416

In virtue of Canon 416, are the canon theologian and the canon penitentiary exempted from the office of deacon and subdeacon to the bishop celebrating solemnly? *Answer:* No, they are not exempt, and the *Caremoniale Episcoporum* is to be observed (Sacred Congregation of the Council, February 14, 1920, and March 10, 1923; *Acta Ap. Sedis,* XII, 117, XV, 588).

## Canon 419

The substitution for choir duty in Chapters of Canons, spoken of in Canon 419, § 1, may be made without the permission of the IIolv See or the local Ordinary (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

The terms "canonici" and "beneficiarii" in § 1 do not include their coadjutors (Committee, January 10,1931, *Acta Ap. Sedis,* XXIII, 110).

## Canon 420

(a) Have persons who are absent from choir in virtue of an Apostolic induit which grants them the right to the daily distributions with the exception of the portion that is destined exclusively for those actually present, a right to the *fallentia? Answer:* Yes, provided there is no question of *fallentia* which are made up of the distributions destined for those actually present (Sacred Congregation of the Council, January 15, 1921; *Acta Ap. Sedis,* XIII, 198).

(b) Must Canon 2381 be applied also in case of a non-residence which is not grievously sinful, or is only materially and not formally culpable and notorious? *Answer:* Yes, that Canon applies, provided that there are no other grounds for excuse, as mentioned in Canons 420-421, and no Papal Induit.

After Canon 2381 came into force, may the beneficiary or canon who was unlawfully absent from his residence retain that part of the revenue of the benefice which corresponds to the private recitation of the Divine Office? *Answer:* He may not.

May the holder of a residential benefice, who has neglected the duty of residence and who is still in possession of his benefice (though unlawfully absent), put aside and retain a certain portion of the revenue to be designated by the Ordinary, which is to be sufficiently large to provide for his maintenance? *Answer:* He cannot retain such portion (Sacred Congregation of the Council, July 10, 1920; *Acta Ap. Sedis,* XII, 357).

## Canon 421

(u) Are the canons who have the obligation attached to their benefice to teach sacred theology and Canon Law in the seminary, excused from the obligation of the choir, though their lectures take place outside the hours of choir, and are they exempt from the choir duty also on holydays on which there is no school and during the vacations? *Answer:* They are free from the choir duty on days on which they lecture, but they forfeit the daily distributions; on days on which they do not lecture, they are not excused (Committee, November 24, 1918; *Archiv fiir katholisches Kirchenrecht,* IC, 61).

(b) Arc canons who, in accordance with Canon 421, § 1, n. 1, teach theology or Canon Law with the permission of the bishop in schools approved by the Church, entitled to the revenue of their benefice only when they receive no remuneration for their teaching, or also when they receive a salary? *Answer:* They are entitled to the income of their benefice, even though they receive remuneration.

Are the terms "sacred theology and Canon Law" in Canon 421, n. 1, to be strictly applied to theology and Canon Law, or may they be applied also to other sciences, e.g., church history, sacred archeology, biblical languages, etc.? *Answer:* Those terms may be applied also to other sacred sciences (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 573).

(c) The canon penitentiary is not considered present in choir and entitled to the daily distributions for the Canonical Hours during which he is teaching moral theology in the seminary (Sacred Congregation of the Council, June 9, 1923; *Acta Ap. Sedis,* XV, 510).

*(d)* Regarding the canon theologian, see Canon 399.

## Canon 422

Are canons jubilarians exempted from the sendee of the altar in their turn, notwithstanding contrary custom? *Answer;* They are exempt in accordance with Canon 422 (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

## Canon 423

Religious and secularized religious priests may not be appointed as diocesan consultera (Committee, January 29, 1931; *Acta Ap. Sedis,* XXIII, HO).

## Canon 427

Is Canon 427 to be applied in the case of vacancy of a bishopric (i.e., may the diocesan consultera elect an administrator) ? *Answer:* Yes, Canon 427 applies; if the peculiar circumstances at present make the application of Canon 427 impossible, the Sacred Consistorial Congregation shall issue temporary instructions as to the manner of appointment of the diocesan administrator, but the bishop shall have absolutely no right to nominate a man who at his death shall take the office of administrator (Committee for the Authentic Interpretation of the Code, November 24, 1918; *Acta Ap. Sedis,* XI, 75).

Because of the special circumstances obtaining in the United States of North America, the Sacred Consistorial Congregation issued a Decree, which was to be in force for three years, stating that in all dioceses where there were not at least five or six diocesan consultera the archbishop—or, in case of vacancy of the archbishopric, the senior suffragan bishop of the province—shall nominate the diocesan administrator, which nomination is to be submitted for ratification to the Apostolic Delegate (Sacred Consistorial Congregation, February 22, 1919; *Acta Ap. Sedis,* XI, 75). This Decree was extended to the dioceses of Canada and Newfoundland by Decree of the Sacred Consistorial Congregation, May 8, 1919 *(Acta Ap. Sedis,* XI, 233).

## Canon 432

Are the dispositions of the Council of Baltimore in reference to the right of nominating the administrator of a vacant diocese still in force, or have they been abolished by the Code? *Answer:* They have been abolished (Committee, November 24, 1918; *Acta Ap. Sedis,* XI, 75).

## Canon 450

The vicar-forane who is at the same time a canon of a Collegiate Chapter in his district does not precede the other canons in choir and other capitular acts (Committee, November 10, 1925; *Acta Ap. Sedis* XVII, 582).

## Canon 459

(«) Concerning the appointment of pastors to irremovable parishes, the Third Plenary Council of Baltimore, n. 26, decreed (1) that a priest must have exercised the sacred ministry in the diocese for at least ten years; (2) that within those years he proved himself capable of administering a parish; (3) that he make the concursus according to the form appointed by the Constitution "Cum Illud" of Pope Benedict XIV. The Hierarchy of the United States requested the Holy Seo to abrogate this law of the Council of Baltimore and permit the appointment of pastors to all parishes to be made according to Canon 459, § 3.

The Holy See granted the petition, abolished the law of the Council of Baltimore referred to in the petition, and ordered that henceforth the appointment of pastors, irremovable and removable, be made according to Canon 459, § 3 (Sacred Congregation of the Council, June 24, 1931; Letter of the Apostolic Delegation to the local Ordinaries of the U. S., August 1, 1931; cfr. *The Homiletic and Pastoral Review,* November, 1931, XXXII, 189).

(b) Canon 459, § 3, n. 3, prescribes that the local Ordinary shall subject the cleric whom he judges qualified for the pastorship of a vacant parish to an examination before himself and the synodal examiners. The following questions arose as to the interpretation of the above precept:

(i) Must a priest who has already been pastor of a parish undergo the examination as often as he obtains a new parish, or does the examination made for the first parish suffice? *Answer:* He need not make a new examination, if the transfer from one parish to another is done at the suggestion and the request of the bishop; if, however, the pastor request the transfer, he is obliged to undergo a new examination, unless the Ordinary together with the synodal examiners judge him qualified for the new parish.

(ii) Must a pastor, who is removed from his parish and transferred in accordance with Canon 2154 to another parish, undergo the examination? *Answer:* No.

(iii) Must a pastor, who is *ex officio* transferred from one parish to another in accordance with Canons 21G2-21G7, undergo the examination? *Answer:* No.

(iv) What shall be done if no priests whom the Ordinary' judges qualified want to undergo the examination, which perhaps happens more than once when there is question of small parishes? *Answer:* In so far as the answer to the first question does not cover the case, the Ordinary shall have recourse to the Sacred Congregation of the Council.

## Canon 459 *(Continued)*

(v) Does the examination spoken of in Canon 996, provided it be conducted before the Ordinary himself and the synodal examiners, suffice for the appointment to the pastorship of the first parish? Answer; No, unless the examination covers all those matters concerning which priests who desire to become pastors are to be examined.

(vi) Does the yearly examination of junior priests (cfr. Canon 130) suffice for the appointment to pastorship, if they are to be made pastors during the time that they are liable to the yearly examination, provided those examinations are conducted before the bishop and the synodal examiners? *Answer: No,* it does not suffice, but in the appointment to the pastorship those arc to be preferred who, all other things being equal, got the higher marks in the examinations, as is stated in Canon 130 [Committee, November 24, 1920; *Acta Ap. Sertis,* XII, 574; cfr. decision of the Sacred Congregation of the Council (in *Causa Romana et aliarum),* June 21, 1919; *Acta Ap. Sedis,* XI, 318].

(vii) The *concursus* for pastorate spoken of in Canon 459, § 4, need not be observed when a newly erected parish is provided with a pastor for the first time (Committee, June 25, 1932; *Acta Ap. Sertis,* XXIV, 284).

## Canon 460

Does Canon 460, § 2 (stating that there shall be but one pastor in one district), apply only to parishes to be later established, or also to parishes erected before the promulgation of the Code? *Answer:* It applies also to parishes erected before the Code became law.

Does the precept of Canon 460 apply also to parishes in which the plurality of pastors was introduced, not by custom or privilege, but by legitimate statute? *Answer:* It applies also to those parishes.

Do the rights already acquired by the several pastors in one and the same district (cumulative pastors) remain to them both in spiritual and temporal affairs, or are the temporal rights lost? *Answer:* The above answers decide the case, i.e., only one priest with parochial jurisdiction can remain in one and the same district. For the application of Canon 460 to these special circumstances, recourse is to be had to the Sacred Congregation of the Council.

Is the care of souls in a district which had several pastors to be committed to the one pastor who has the preeminence of honor or earlier possession? *Answer:* The same as in the preceding paragraph (Committee, July 14, 1922; Acta *Ap. Sertis,* XIV, 527).

## Canon 462

Are the words of Canon 462, n. 7—"to conduct public processions outside the church"—to be understood of those processions only which start from the parochial church, or also of processions which start from other churches located within the territory of a parish, even when these churches are not subsidiary churches of the parish, and have their own rector? *Answer:* Those words apply to all these churches, without prejudice, however, to the rights granted to all non-parochial churches by Canons 482 and 1291 (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 661).

The right of the pastor to conduct public processions outside the church within the territory of his parish extends also to processions held by religious, even exempt ones, outside their churches and cloisters, unless they have the permission of the local Ordinary. The Corpus Christi procession, however, is regulated by Canons 1291, § 2, and 1293 (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 582).

## Canon 465

With regard to the right of the *vicarius substitutus* (§4) to witness marriages, sec Canon 1095.

## Canon 466

(a) Must a priest who is in charge of several vacant parishes apply more than one Mass on Sundays and holydays for the people of the several parishes entrusted to him? *Answer:* He may apply one Mass in accordance with Canon 473 (Committee, July 14, 1922; Acta *Ap. Sedis,* XIV, 528).

Must a pastor who, besides his own parish, has the administration of one or more other parishes, apply Mass *pro populo* only on the feast of his own parish, or must he also do so on the feast or feasts of the other parish or parishes? Answer: He must also apply Mass *pro populo* on the feast or feasts of the other parish or parishes (Sacred Congregation of the Council, November 20, 1927; *Acta Ap. Sedis,* XX, 84).

(δ) A pastor in charge of two parish churches must say the Office with octave of the titular feasts of both churches, not merely of that at which he resides (Sacred Congregation of Rites, April 27, 1929; *Acta Ap. Sedis,* XXI, 321).

(c) The Archbishop of Breslau explains that in his archdiocese there are three kinds of pastors: (i) in the scattered districts where the Catholic people are but few in number, as compared to the non-

## Canon 466 *(Continued)*

Catholics, there are many parishes erected which are similar to those in missionary countries; they are not benefices properly so called, but stations or chapels erected for the care of souls within certain districts defined by territorial boundaries; (ii) in other parts of the country where there are parishes in the proper sense of the term, other churches have been erected for the benefit of parishioners who are too far away from the parish church, and these churches have not been completely separated from the parish; (iii) other churches exist which are of the nature of those mentioned in (ii), but the rectors of these churches have the administration of the temporal goods entirely independently of the parish church. Arc the pastors of the various kinds of parishes obliged to apply Mass for the people? *Answer:* The pastors mentioned under η. 1 are: those described under nn. 2 and 3 are not [Sacred Congregation of the Council *(in Causa Wratislaviensi),* July 13, 1918; *Acta Ap. Sedis,* XI, 4G].

*(d)* For official list of the suppressed feasts on which pastors must say Mass for the people, see Canon 339.

(e) Regarding the application of the Mass *pro populo* in dioceses formerly under the jurisdiction of the Propanda, see Canon 216, a, v.

(/) The Apostolic Delegate in the United States is authorized by Rescript granted for five years on June 20, 1924, and renewed for five years on November 13,1929, to reduce the Masses for the people of the parish in poor parishes to the number of Masses enumerated in Canon 306 *(Ecclesiastical Review,* September, 1932, p. 302).

## Canon 470

Regarding the special arrangements for Russia, see Canon 1103, b.

## Canon 473

Regarding the obligation of the *vicarius œconomus* to apply Mass for the people, see Canon 466, a.

## Canon 474

The *vicarius substitutus* (i.e., a priest who takes charge of a parish in the absence of a pastor, cfr. Canon 465) has, in virtue of Canon 474, full parochial powers in all things concerning the care of souls. In reference to his assistance at marriages, various points have been decided by the Committee (see Canon 1095).

## Canon 476

(a) The *vicarii cooperatores* (i.e., assistant priests to a pastor) are appointed by the bishop, but he must, in accordance with Canon 476, give a hearing to the pastor before making the appointment of an assistant priest, for the Sacred Congregation of the Council, November 13, 1920, declared that, notwithstanding any custom to the contrary, the Ordinary must consult the pastor *(Acta Ap. Sedis,* XIII, 43).

(b) Assistant priests' rights and duties are not determined by the common law, but must be learned from the statutes of the respective diocese, from the letters of appointment of the bishop, and from the commission given them by the pastor (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 113).

## Canon 478

The pastor of the cathedral church precedes the pastor of a non-cathedral church, though the latter holds at the same time a dignity in the cathedral church [Sacred Congregation of the Council (in *Causa Forloviensi),* February 10 and June 9, 1923; *Acta Ap. Sedis,* XVI, 400].

## Canon 482

For decision as to the right to conduct public processions outside the church, see Canon 462.

# PART II

## CONCERNING RELIGIOUS

### Canon 487

(a) The Canons of the Code on religious laical organizations have been translated into various languages, the translations being authorized but not official. Now, in some translations the text of certain Canons does not agree with the precepts of those Canons in the Code. It is asked whether some changes have been made in those matters, or whether one must adhere to the text of the Code and consider the divergence of the translation as a mistake? *Answer:* The Code must be adhered to and the translation is to be corrected (Sacred Congregation of Religious, April 2, 1919; *Acta Ap. Sedis,* XI, 179).

(b) If a religious in any Order or congregation becomes insane during the three years of simple profession so that he cannot be admitted to solemn or perpetual vows, may the Order or congregation dismiss him and send him to his family or into the world? *Answer:* No, the religious belongs to the organization in the same state as he was before the affliction, and the religious organization has the same responsibilities towards him as it had before he became insane (Sacred Congregation of Religious, February 5, 1925; *Acta Ap. Sedis,* XVII, 107).

### Canon 488

(a) It happens at times that convents of nuns, whose vows were originally solemn vows but have been reduced to simple vows by the Apostolic See in some countries, establish new convents of the same Order in other countries by sending there some of the nuns. From this condition the following questions arise:

(i) Are the vows of the nuns in convents established in other countries to be considered solemn or simple vows? Answer; They are solemn vows, provided the *beneplacitum* of the Apostolic See was obtained for the new convents in other countries.

(ii) Can the nuns spoken of in Canon 488, n. 7, establish new convents in other places without the *beneplacitum* of the Holy See? Answer; No, and the Holy See is to be requested to grant a *sanatio*

for the convents already founded without the *beneplacitum* of the Holy See.

(iii) Does a convent of nuns with solemn vows and Papal enclosure when transferred to another place continue to have Papal enclosure and solemn vows? *Answer:* Recourse is to be had in each case to the Apostolic See.

(iv) What is the canonical status of a convent of nuns spoken of in Canon 488, n. 7, when transferred to a country where the reduction of solemn to simple vows does not apply? *Answer:* Each case is to be referred to the Apostolic See. The Supreme Pontiff approved the Decree of the Sacred Congregation and granted the request for the *sanatio* (Sacred Congregation of Religious, July 27, 1922; *Acta Ap. Sedis,* XIV, 554).

(b) Concerning the convents of nuns in France and Belgium the Holy See declared: (i) the nuns of convents which profess the rules of religious Orders and whose vows were originally solemn vows, though at present they have only simple vows, are truly nuns of Papal Law in the sense of Canon 488, n. 7, like other nuns in the universal Church; (ii) their convents, however, are not subject to the superiors of regular Orders, except by special privilege, and therefore they do not, in accordance with Canon 615, enjoy the privilege of exemption, but are subject to the jurisdiction of the local Ordinaries in those matters in which the Code gives the local Ordinaries jurisdiction over nuns; (iii) there is no objection at present, if a convent of nuns requests it, to their being permitted to make solemn vows observing Papal enclosure, provided they obtain the permission of the Apostolic See (Sacred Congregation of Religious, June 23, 1923; *Acta Ap. Sedis,* XV, 357).

## Canon 492

*(a)* The Rules or *Norma,* in accordance with which the Sacred Congregation of Religious usually proceeds in the approval of new religious congregations, were first published in 1901. The Sacred Congregation has revised these rules in accordance with the Code of Canon Law. The new *Norma* outline the manner of procedure by the bishop who wishes to establish a new religious congregation. The second part of the old *Norma,* on the government of new congregations, the novitiate, profession, etc., is not considered necessary any longer by the Sacred Congregation. It says that the writers of constitutions for new religious organizations should be guided by the Canons of the Code and by approved authors who wrote on the foundation of new religious organizations after the publication of the *Norma* of 1901 (Sacred Congregation of Religious, March 6, 1921; *Acta Ap. Sedis,* XIII, 312).

## Canon 492 *(Continued)*

(&) In order that a religious community or society living after the manner of religious may have legal standing in the Church, it is necessary that it be approved by a formal decree issued by a competent ecclesiastical superior.

At times, especially prior to the Motu Proprio, "Dei Providentia," of July 1G, 1906, it has happened that some religious congregations arose which were merely tolerated, being implicitly approved by the Ordinaries without however a formal decree.

To obviate the inconveniences resulting from such a state of affairs, the Sacred Congregation of Religious decrees as follows:

(1) Each bishop or prelate who has quasi-episcopal jurisdiction in a separate territory shall, as soon as possible, inquire concerning each and every religious congregation or society in his diocese, though it may consist of only one house, with the exception of those religious organizations which have been approved by the Holy See by at least the *Decretum laudis.* The inquiry shall be on these points:

(a) whether they were erected by a formal decree of the bishop of the diocese (and, if they were, the decree should be examined);

(b) whether the statutes or constitution have been approved by the bishop.

(2) If no decree of the bishop can be found, but the congregation or society has been recognized by his official acts (as, for instance, by presiding over receptions, professions and the like), he should recognize them as diocesan congregations or societies by issuing a formal decree, provided there is no serious objection. Such a decree has the force of making good the defect of lack of canonical erection in the past.

As congregations and societies organized after July 16, 1906, cannot bo approved by the bishop, if permission for such approval was not obtained from the Holy See, these communities cannot now be made legal by a decree of recognition.

(3) If such a religious institute has expanded into several dioceses, the Ordinary in whose diocese the principal house is located must investigate its canonical standing. He should not, however, issue a decree of recognition without consulting the bishops of the other dioceses concerned. If they do not object to recognition, he may issue the decree.

(4) If the bishop has serious reasons for not issuing the decree of recognition of a congregation or society which was never formally approved, or if one of the bishops in whose dioceses the congregation or society has a branch house objects, the matter must be referred to the Sacred Congregation of Religious.

(5) Every Ordinary shall submit to the Sacred Congregation of

Religious a list of all the diocesan congregations and societies of religious in his diocese, those approved as well as those which were never formally approved, and he shall indicate: (a) the title; (b) the scope; (c) the name of the founder and the laws of its foundation; (d) the decree of erection or recognition; (e) into what dioceses each organization has branched out; (f) the number of members and houses.

(6) If a local Ordinary has no principal house or independent community of any diocesan congregation or society in his diocese, he must inform the Sacred Congregation to that effect by a written statement.

(7) If in future an Ordinary, after due permission from the Holy See has been obtained, desires to erect some new congregation or society of religious, he must first issue a formal decree to that effect, one copy of which is to be forwarded to the Sacred Congregation of Religious, another is to be kept by the religious organization, and a third is to be kept in the diocesan archives (Sacred Congregation of Religious, November 30, 1922; *Acta Ap. Sedis,* XIV, 644-G46).

## Canon 500

Do the convents of nuns in France and Belgium, whose vows were originally solemn vows but were reduced to simple vows by order of the Apostolic See, continue to be under the jurisdiction of the local Ordinaries as before the promulgation of the Code? *Answer:* The Holy See is to be requested to make those convents dependent on the local Ordinaries with this limitation that the bishops have no authority to change the rules of the ancient Orders or the constitutions of nuns approved by the Holy See. The Supreme Pontiff approved the recommendation of the Sacred Congregation (Sacred Congregation of Religious, May 22, 1919; *Acta Ap. Sedis,* XI, 240).

## Canon 505

(a) Concerning the precept of Canon 505, that the local superiors shall not hold office for more than two terms of three years each, the question arose whether that law is to be applied also to the superiors or directors of schools, hospitals, and other charitable institutes. The Holy See has declared that the precept of Canon 505 applies also to them, if they are at the same time religious superiors having charge over other religious in reference to religious discipline; if they do not have such charge, the law does not apply to them (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 344).

*(b)* Concerning the repeated reelection of the same person to the office of superior general in religious organizations of women, the Sacred Congregation of Religious declares that, where the constitutions

## Canon 505 *(Continued)*

fix the term of office (extending frequently to six years), and allow the reelection for another term, the Chapter needs permission from the Sacred Congregation of Religious to reelect superiors for a third, fourth, etc., term. The very fact that the constitutions decree that the office of the superioress general should be temporary, proves that reelection of the same person for more than two terms (especially when each term lasts six years) is against one of the essential principles of the constitution of these organizations. The Holy See wishes to impress the voters with the fact that it does not easily permit the liolding of office by the superioress general beyond the terms fixed by the constitutions (Circular Letter of the Sacred Congregation of Religious, March 9, 1920; *Acta Ap. Sedis,* XII, 365).

(c) Have the founders (men or women) of religious congregations or pious societies, who live after the manner of religious, the right to retain for life the office of supreme superiors in the organization, though the constitutions limit the office of the superior to a certain term of years and forbid the reelection of the same persons beyond a certain limit? *Answer:* They have no right to perpetual superiorship, unless they have obtained an Apostolic Induit (Sacred Congregation of Religious, March 6, 1922; *Acta Ap. Sedis,* XIV, 163).

(d) The term "local superior" in the Code does not apply to the superiors of those religious houses which are merely branches of the motherhouse *(domus filiales),* because such superiors are only delegates of the superior of the motherhouse and are removable at the will of that superior. The Sacred Congregation of Religious ordains that, in the revision of the constitutions for the purpose of conforming them to the Code of Canon Law, each Order and Congregation should specify which houses are to be considered merely as branches of the motherhouse (Sacred Congregation of Religious, February 1, 1924; *Acta Ap. Sedis,* XVI, 95).

*(e)* The precept of Canon 505 comprises also the Societies spoken of in Canons 673-681, and applies to those houses of the Societies which are not properly speaking religious houses, but are merely externally connected with the Society in so far as a few of the members are employed in those houses (e.g., seminaries, schools, hospitals), in accordance with the declaration of June 3, 1918 (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

## Canons 506-507

(a) If a convent of sisters in solemn vows is under the jurisdiction of the regular superior, he has the right to preside at the elections

held by the nuns (cfr. Canon 506, §2). The local Ordinary, however, is to be informed of the elections to be held, and, if he desires, he may attend the elections together with the regular superior, and the Holy See declares that the local Ordinary or his delegate has then the right to preside at these elections (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 574).

(&) As to the Chapter of diocesan religious communities, the question arose whether the bishop of the motherhouse or the superioress general has the right to decide where the Chapter is to be held, if the diocesan congregation has houses in other dioceses. The Sacred Congregation of Religious declares that the Mother General has the right to determine -where the Chapter is to be held (cfr. Canons 162 and 507), and that the right of presiding over the election of the Mother General and of confirming or rescinding the election does not pertain to the local Ordinary of the motherhouse, but to the local Ordinary of the place w'here the Chapter is held, in accordance with Canon 506, § 4. The Supreme Pontiff approved the decision of the Sacred Congregation (July 2, 1921; *Acta Ap. Sedis,* XIII, 481).

## Canon 509

Regarding instruction of the subjects of these Societies in Christian Doctrine, see Canon 565.

## Canon 510

The Code prescribes that the Superiors General of monastic congregations and of all religious organizations under Papal law' (this does not therefore refer to diocesan congregations) shall make a report every five years on the status of the organization, to be submitted to the Sacred Congregation of Religious.

Now', these reports are to be made every five years, beginning January 1, 1923, in the following order:

I. Orders and Congregations of Men.

(a) In the first year: Canons Regular, Monks, Military Orders.

(b) In the second year: Mendicant Orders.

(c) In the third year: Regular Clerics.

(d) In the fourth year: Clerical and Lay Congregations w'ith simple vow's.

(e) In the fifth year: societies of men living after the manner of religious without vows or with private vows.

II. Religious communities of women shall make their report according to the various countries in which the principal house of the organi-

Canon 510 *{Continued}*

zation is located or where the Superior General has his (or her) residence *ex officio.*

(a) In the first year: Italy, Spain, Portugal.

(b) In the second year: France, Belgium, Holland, England, Ireland.

(e) In the third year: other European countries.

(d) In the fourth year: North and South America.

(e) In the fifth year: all other countries in the world, and also all societies of women living after the manner of religious without vows or with private vows.

III. Organizations which have already made the report within five years preceding the year in which they would have had to make the report on the first quinquennium of 1923-1927, are excused from making it for the first quinquennium only.

IV. The report is to be made according to the latest formula of questions published by the Holy See (this formula was published by the Sacred Congregation of Religious, March 25, 1922, in the *Acta Ap. Sedis,* XIV, 278-286).

V. Superiors General of Orders, congregations and societies which were not obliged to make such a report to the Holy See before the Code became law, shall submit a complete report of the status of their organization, so that the Holy See may form an adequate judgment of the moral, disciplinary and material condition of the organization. The first report to the Holy See is to contain also historical notes of the foundation of the organization, the history of the approval by the Holy See of the organization, and its constitutions (Sacred Congregation of Religious, March 8, 1922; *Acta Ap. Sedis,* XIV, 161).

Canon 512

With reference to the visitation of the convents of Sisters in solemn vows which are under the jurisdiction of regulars, the question arose whether, in accordance with Canons 512, § 2, n. 1, and 513, the local Ordinary (besides the regular superior) has the duty to visit these convents every five years in reference to the observance of the law of enclosure? *Answer:* Yes, he has the right according to Canon 513 (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

Canon 514

Concerning the administration of the Holy Viaticum and Extreme Unction to religious, it has been declared that Canon 514, § 1, is to be

so understood that the superiors of clerical religious communities have the right and duty to give those Sacraments to their subjects even when they are outside the religious house (e.g., in a hospital), but that right is restricted, to the professed and the novices. Moreover, in places where the Blessed Sacrament is carried publicly to the sick, the superior would not of his own authority be entitled to carry the Sacrament publicly to his subjects; Canon 848 reserves that right to the pastor within his parish (Committee, June 16, 1931; *Acta Ap. Sedis,* XXIII, 353).

## Canon 517

The procurator general, whom every society of papal law must assign to the Holy See in accordance with Canon 517, § 1, must be chosen from the members of such society, and must have his habitual residence in Rome (Sacred Congregation of Religious, June 4, 1920; *Acta Ap. Sedis,* XII, 301).

## Canon 520

The Sacred Congregation of Religious had answered the Bishop of Linz, July 3, 1916, that there was no obligation to appoint an ordinary confessor for a convent, if there were not at least six Sisters living at the convent. Canon 520 prescribes that a confessor should be appointed for every house of Sisters. The Archbishop of Prague, therefore, asked whether he might act on the Decree of the Sacred Congregation to the Bishop of Linz? *Answer:* The precept of Canon 520 is to be observed (Sacred Congregation of Religious, January 10, 1920; *Archiv fiir katholisches Kirchenrecht,* C, 47).

The Bishop of Osnabrück asked whether there is a strict obligation to appoint for each convent of Sisters an ordinary and an extraordinary confessor in the case of the so-called *domus non-formatce* (i.c., houses in which there are less than six professed Sisters), or whether that obligation exists only when there arc more than six professed Sisters in a convent? *Answer:* Canons 520-521 give the answer—i.e., those confessors must be appointed for each convent of Sisters. In reference to the other question proposed by the same bishop concerning the place of confession for Sisters, the declaration of the Committee, November 24, 1920, is decisive (Committee, January 16, 1921; *Archiv fiir katholisches Kirchenrecht,* CI, 61).

## Canon 522

(a) Concerning the place of confession for Sisters the Holy See was requested to decide whether Canon 522—stating that "confession made in any church or public and semi-public oratory is valid and

## Canon 522 *(Continued)*

licit"—is to be understood in such a manner that the confession made outside those places is not only illicit but also invalid. The Committee answered: Canon 522 is to be understood in such a way that the confession made by a Sister for the peace of her conscience to any confessor approved by the local Ordinary for confessions of women is licit and valid, provided it be made in a church or a public or semi-public oratory, or in a place legitimately appointed for the hearing of confessions of women (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

The Holy See has answered to the following questions: (1) Is the confession of religious women outside of the places spoken of in Canon 522 and in the answer of November 24, 1920, merely illicit or also invalid?—Not only illicit but invalid. (2) Is the word "adeat" in Canon 522 to be so understood that the confessor cannot be called by the religious herself to a place legitimately appointed for the hearing of confessions of women or religious sisters?—No, it need not be understood in that sense (Committee, December 28, 1927; *Acta Ap. Sedis,* XX, 61).

(b) The Bishop of Osnabrück proposed the following difficulty to the Sacred Congregation of Religious: What course of action may be taken by Sisters who are in the convent, and who want for the peace of their conscience to approach a confessor approved for the confessions of women by the local Ordinary without the knowledge of their superioress? .Answer; Canon 522 permits, indeed, that a Sister make use of any occasion that presents itself to go to confession for the peace of her conscience to any confessor approved for the confessions of women by the local Ordinary, even without the knowledge of her superioress. That Canon, however, does not in any way impose upon the superioress or upon the Ordinary the duty to create such occasion for the Sisters—much less shall anything be changed for that purpose in the discipline of the enclosure or in the constitutions. Wherefore, the Sacred Congregation of Religious answers to the question of the bishop that the Sisters should await an occasion, but they may not without permission leave the enclosure to go to confession; they must bear the situation patiently, if no occasion offers them an opportunity to make use of the concession of Canon 522 (December 1, 1921; .Archiv *für katholisches Kirchenrecht,* CH, 84).

## Canon 533

The local Ordinary possesses the right in virtue of Canons 631, § 3, 535, § 3, n. 2, 533, § 1, nn. 3-4, to demand an account of the

administration of lands and legacies of a parish of religious incorporated *pleno iure,* spoken of in Canon 1425, § 2, without prejudice to the rights of the religious pastor given to him by Canon 630, § 4, and to the religious superior by Canon 1550 (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

## Canon 535

In virtue of Canon 535, n. 1, must an account of the administration be given by Sisters in solemn vows, who are under the jurisdiction of the regular superior, not only to the regular superior but also to the local Ordinary? *Answer:* To both the superior and the Ordinary (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

For decision regarding right of Ordinary to demand an account of the administration of lands and legacies of religious parish, see Canon 533.

## Canon 542

(a) Canon 542 rules that persons who have adhered to a non-Catholic sect cannot be validly received into the novitiate. The Holy See was requested to declare whether it meant converts from heresy or schism, who were born in heresy or schism, or Catholics who had fallen away from the faith and belonged to a non-Catholic sect? *Answer:* It means Catholics who have fallen away and joined a non-Catholic sect (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

(5) If, while retaining their own Rite, Orientals ask to be admitted into the novitiate of a religious community of the Latin Rite for the purpose of preparing themselves to establish religious houses and provinces of an Oriental Rite, the permission of the Holy See is not required for admission to the novitiate (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 583).

## Canon 544

The Brothers of the Christian Schools do not need testimonial letters from the local Ordinary for the alumni of their "minor novitiate," during the period that they reside in this house (Committee, July 28, 1918; Vermeersch-Creusen, *Epitome,* I, n. 649).

## Canon 545

What is to be done if the religious superior or the rector of a seminary or college refuses to issue sworn testimonial letters as required by Canon 545, § 1, when requested by the superior of an organization which desires to receive the postulant? *Answer:* The

Canon 545 *(Continued)*

precept of the Code must be observed, and, if there is question of diocesan or of laical institutes (either colleges or seminaries), the local Ordinary shall proceed against the rector or superior who refuses to issue sworn letters with penalties, even the deprivation of office; in case of clerical religious organizations or religious Orders, the supreme superior shall proceed against the rector or superior in the same manner as the local Ordinary. If, nevertheless, sworn testimonials cannot be obtained, the matter is to be referred to the Sacred Congregation (Sacred Congregation of Religious, November 21, 1919; *Acta Ap. Sedis,* XII, 17).

Canon 552

In religious Orders and congregations of women the local Ordinary must examine the candidates before their admission to the novitiate, before their profession of the first vows, and before they take perpetual vows (cfr. Canon 552). The bishop of a certain diocese explains that it had been the custom for several centuries in his diocese to demand a tax for this work from the religious communities, and he asks whether that custom may continue? Answer; No, the custom may not be continued (Sacred Congregation of Religious, March 20, 1922; Acta Ap. *Sedis,* XIV, 352).

Canon 555

(a) The constitutions of some religious organizations prescribe two years' novitiate, and allow the superiors to employ the novices in various duties of the organization during the second year. The Sacred Congregation of Religious demands: (i) that the second year be truly a year of novitiate, given chiefly to the formation of the spiritual life of the novices; (ii) the novices may, if the constitutions allow it, be employed in the work of the community, but only for the purpose of completing their training, and may not be employed to supply the want of teachers or nurses; (iii) if the constitutions allow the novices to be sent outside the house of novitiate in the second year, this may be done for the purpose of the further training of the novices, but they may not be sent out to supply the want of professed religious; (iv) for two months prior to the making of profession, the novices must be at the house of novitiate, and must be free from all employment which interferes with their immediate preparation for profession (November 3, 1921; Acta Ap. *Sedis,* XIII, 539).

(b) Concerning the reckoning of the time of the year of novitiate (cfr. § 1, n. 2), the Holy See was asked to decide whether the year is to be reckoned in accordance with Canon 34, § 3, n. 3, and whether

that reckoning is obligatory under pain of invalidity of the profession. Answer: Canon 34, § 3, is to be applied, so that the first day (i.e., the day of reception) does not count, and the year is not completed until after the day of the same number; this reckoning of the year is prescribed under pain of invalidity of the profession (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 661).

## Canon 556

The novitiate is interrupted by an absence of over thirty days (cfr. Canon 556), even if this happens through transfer from one novitiate to another of the same Order (Committee, July 13, 1930; *Acta Ap. Sedis,* XXII, 365).

## Canon 557

A professed religious who seeks admission into another religious organization must wear the habit of the new organization during the novitiate (Sacred Congregation of Religious, May 14, 1923; *Acta Ap. Sedis,* XV, 289).

## Canon 565

In all laical organizations of religious the Holy See demands that the religious be thoroughly trained in Christian doctrine. During the postulate and the novitiate they must not only memorize the points of Christian doctrine but be trained to explain them correctly. Before they may be admitted to vows, they must have proved in examination their sufficient knowledge. After the novitiate, if the Brothers or Sisters are to teach Christian doctrine in the primary schools, they must be taught not only the principles of catechetics but also the manner of teaching children, and they must pass an examination before the Ordinary or the examiners appointed by him. As to the subjects in which they are to be examined, the program in use at Rome for determining whether one is qualified to teach Catechism in the elementary schools may serve as a model. If they are not teaching in schools but in the parish (in private houses or other places outside of the schools), they should get a certificate from the Curia of the Ordinary (Sacred Congregation of Religious, Nov. 25, 1929; Acta Ap. *Sedis,* XXII, 28).

## Canon 567

In accordance with Canon 567, $ 1, and Canon 5/8, n. 1, have novices and temporarily professed religious who die, the right to the same suffrages as members who die in solemn or perpetual simple vows, even though the constitutions ordain otherwise? Answer: Yes;

### Canon 567 *(Continued)*

the Orders and congregations shall in the revision of their constitutions (prescribed by Decree of the Sacred Congregation of Religious, June 26, 1918) determine the suffrages, but they must be the same for all, novices and professed members (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

### Canon 569

Canon 569 provides that the novices before their profession may freely dispose of the use of their goods and the revenue derived from them, which disposition is to last for the time that they remain in vows. The question arose whether the constitutions may determine for what purpose the use and revenue of the goods of novices are to be employed, and thus restrict the free disposition by the novices. *Answer:* The constitutions which have been approved before the promulgation of the Code are to be observed, though they deprive the novices of the right to dispose of the use and the revenue of their goods, or restrict that right, or determine what is to be done concerning the use and the revenue (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 478).

### Canon 572

(a) In the constitutions of some religious congregations of Papal law, no mention is made in the formula of profession of the superioress, but only of the bishop or his delegate. It was asked whether in such cases the bishop or his delegate was the legitimate superior appointed by the constitutions to accept the profession in accordance with Canon 572, n. 6? Answer; Yes, he has a legitimate mandate by the constitutions (Committee, March 1, 1921; Acta *Ap. Sedis,* XIII, 178).

(b) Is the Decree of the Sacred Congregation of Religious, September 10, 1912, allowing the novices who become dangerously ill to make profession though they have not yet completed the novitiate, still in force, though the Code does not provide for such profession? *Answer*; Yes. The Sacred Congregation repeats the above-mentioned Decree, and points out that the profession is of no juridical value in case the novice survives the danger (Sacred Congregation of Religious, December 30, 1922; *Acta Ap. Sedis,* XV, 156).

### Canon 573

Must all lay brothers in religious Orders who had made simple vows before the Code became law (May 19, 1918) stay in simple vows for six years, and be at least thirty years of age, as was prescribed by Decree of January 1, 1911 *(Ada Ap. Sedis,* III, 29), or may they,

according to Canons 573-574, make solemn profession after three years' simple vows and at the age of twenty-one? *Answer:* Their solemn profession is governed by Canons 573-574 (Sacred Congregation of Religious, October 6, 1919; *Acta Ap. Sedis,* XI, 420).

## Canon 574

(a) Are the precepts of the Decree "Inter reliquas," of the Sacred Congregation of Religious, January 1, 1911, with reference to the religious forced by the civil law to undergo military training, still in force. *Answer:* They are in force.

Must novices who are liable for military' training take temporary vows at the end of the novitiate in the manner prescribed by Canon 574? *Answer:* No, they shall make temporary vows to last until they begin the military service (Sacred Congregation of Religious, July 15, 1919; Acta *Ap. Sedis,* XI, 321).

(l>) Are the Decrees of the Sacred Congregation of Bishops and Regulars, July 18, 1902, *ad* I, and January 15, 1903, *ad* I and II, in reference to the manner of making simple and solemn profession in orders of nuns in accordance with the Decree "Perpensis" of May 3, 1902 (cfr. *Acta S. Sedis,* XXXV, 31), still in force after the promulgation of the Code, which demands that only' temporary vows be taken before solemn profession? *Answer: No,* they are abolished. The Sacred Congregation further declares that all those rites and ceremonies which indicate the perpetuity of the religious state must be reserved until solemn profession; for the profession of the temporary vows it suffices, in accordance with Canon 577, that it be accepted by the legitimate superior in person or by a delegate; the individual constitutions must be consulted to ascertain what superior is entitled to accept the profession (Sacred Congregation of Religious, July 10, 1919; *Acta Ap. Sedis,* XI, 323).

(c) The Holy See was requested to declare whether the simple perpetual vows made in religious orders of men or women before the solemn profession prior to the promulgation of the Code are subject to the former laws in reference to the manner of dismissal of those religious and the effects of the dismissal? *Answer:* Yes, they are subject to the former laws (Committee, October 1G, 1919; *Acta Ap. Sedis,* XT, 47G). The Code abolishes the perpetual vows after the novitiate in all religious orders of solemn vows, and demands that the novices make temporary vows before solemn profession (cfr. Canon 574).

*(d)* Tn religious congregations or institutes in which the constitutions prescribe annual vows after the novitiate, may men liable for

### Canon 574 *(Continued)*

military service be admitted to the yearly professions? *Answer:* Yes, but with the provision that the annual vows cease on the day on which the men who have been called to military service are actually placed under military discipline (Sacred Congregation of Religious, November 30, 1919; *Acta Ap. Sedis,* XII, 73).

(e) In some religious organizations of simple vows the vows are made under this or a similar condition, "for so long as I shall live in the congregation," so that the professed member automatically becomes released from his vows, when he either leaves of his own free will or is dismissed. The question arises whether, in accordance with Canon 574, the religious must make three years' temporary vows, and whether, in the dismissal of those who made profession under the above condition, the formalities prescribed by the Code for the dismissal of religious in temporary vows (cfr. Canons 647-G48) or those for the dismissal of perpetually professed are to be observed? *Answer:* They need not make three years' temporary vows, and in the dismissal of those who have already made vows under the above condition Canons G4G-648 are to be observed (Committee, March 1, 1921; *Acta Ap. Sedis,* XIII, 177).

### Canon 576

Regarding the special arrangements for Russia, see Canon 1103, b.

### Canon 578

For decision regarding right to suffrages of deceased novices and temporarily professed religious, see Canon 567.

### Canon 580

With reference to the moneys, etc., accruing to the religious on account of military service during the war, the Holy See issued the following answers to inquiries:

(i) May solemnly professed religious rightfully retain for themselves any of the money which they have received or shall receive through military service, or are they obliged to give all of it to their Order? *Answer:* They must give all of it to their Order.

(ii) May solemnly professed religious, who by Apostolic Induit are rendered capable of acquiring goods after their profession, appropriate any of the money spoken of above without the consent and express permission of their major superior? *Answer:* No, they may not.

(iii) Are religious in simple vows, either perpetual or temporary,

whose constitutions exclude all further acquisition of temporal goods after their profession, obliged to give all the said moneys to their religious organization? *Answer:* Yes, those who at the time of military service were bound by vows arc obliged to give all moneys to their organization; those whose vows ceased at the time of military sendee arc not obliged.

(iv) May religious in simple vows, either perpetual or temporary, in any religious Order or congregation, whose constitutions do not stand in the way, appropriate for themselves any of the money which they received in pay for their military service, or are they obliged to give to their organization after dismissal from the sendee whatever they have saved? *Answer:* If the men in question were bound by vows during the military sendee, they must give all to their organization; if their vows ceased, they can appropriate some of the money, but they should give their religious organization a fair compensation.

(v) Where a life pension because of mutilation or debilitation suffered in the war has been given to simply professed religious, or to those spoken of in Canon 673, or to those whose vows or promises remained suspended, does this pension pertain to the respective religious organization or society? *Answer: If* the religious were bound by vows during the military service, the pension belongs to the religious organization; in the case of all others, it belongs to the religious, but they are obliged to give it to their organization as long as they remain in it.

(vi) Do any rewards gained by military distinctions in the war belong to the former soldiers, or rather to their religious organization? *Answer:* They belong to the religious organization unless the men were freed from the vows during the military service.

(vii) Does the money given to each soldier on his discharge from the war service as a solemn manifestation of the gratitude of the public belong to the religious organization? *Answer:* Yes, it belongs to the religious community, except in the case of those who were freed from the vows during the war.

(viii) Are religious who disposed of the money even in favor of third persons in violation of the above decisions, obliged to make restitution? *Answer:* They are obliged to make restitution, unless the religious acted with the reasonably presumed permission of his superior (Sacred Congregation of Religious, March 16, 1922; *Acta Ap. Sedis,* XIV, 196).

## Canon 587

Regular clerics are equally bound by the regulations concerning the attendance of lay universities by secular clerics (see Canon 144).

### Canon 589

For Instruction on the education of religious candidates for the priesthood and the scrutiny before their admission to Sacred Orders, see Appendix VIII.

### Canon 590

Regarding the obligation of religious pastors to undergo the examination for the pastorate, see Canon 130.

### Canon 595, § 1, η. 1

For the Encyclical of Pope Pius XI on Spiritual Retreats, see Appendix II.

### Canon 597

Does the law of Papal enclosure, referred to in Canons 597-600, apply to nuns whose vows were originally solemn, but have been reduced to simple vows by the Holy See in some countries? *Answer:* No, they are not under that law because of the Papal Induit which still remains in force (Committee, March 1, 1921; *Acta Ap. Sedis,* XIII, 178).

### Canon 600

The Instruction issued by the Sacred Congregation of Religious on the Papal enclosure of nuns states that, since the promulgation of the Decree of this Congregation, June 23, 1923, on the status of the nuns in France and Belgium, many convents of nuns have availed themselves of the permission to apply for the making of solemn vows, and have asked for definite information on the law of Papal enclosure to be observed by those convents which obtained permission to make solemn vows. The Sacred Congregation, therefore, sums up the former law on the enclosure of nuns, and modifies these laws to some extent to harmonize with the Code and to take account of modern conditions (Sacred Congregation of Religious, February 6, 1924; *Acta Ap. Sedis,* XVI, 96).

For the Complete Instruction on Papal Enclosure, see Appendix IX.

### Canon 610

In virtue of Canon 610, § 2, which prescribes that in all religious organizations of men the Conventual Mass corresponding to the Office of the Day is to be said daily and also wherever possible in organizations of women, is the Conventual Mass of obligation in Orders of men and women with solemn vows only, or also in the religious houses of communities with simple vows, whose constitutions approved by the

Holy See impose the obligation of the choir? *Answer:* It is of obligation also in the latter religious organizations (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 113).

## Canon 621

Does Canon 621, § 1, apply only to those mendicant religious who are Mendicants in the strict sense of the term, or also to those who in a wider sense are Mendicants (e.g., the Order of Friars Preachers), and do the Mendicants strictly so-called need the permission of the Ordinary if they want to collect money for the building, decoration, etc., of their churches? *Answer:* Canon 621, $ 1, applies to Mendicants strictly so-called only; as to the obtaining of the Ordinary's permission for soliciting alms, Canon 621, $ 1, answers the question (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 478).

## Canon 625

Regarding the abbatial blessing, see Canon 322.

## Canon 631

For decision regarding the right of the Ordinary to demand an account of the administration of lands and legacies of religious parish, see Canon 533.

## Canon 632

The Holy See was asked whether (1) the local Ordinaries have authority to permit the transition of nuns with simple vows (whose organization had at one time solemn vows which have been reduced to simple vows by the Holy See) to another autonomous monastery of the same Order, and (2) whether the local Ordinaries may at least pennit a temporary transition so that the nuns enjoy all the rights and privileges of the nuns of the monastery to which such temporary transition is made during the time that they stay there? The answer is in the negative, wherefore permission of the Holy See is required in both cases (Sacred Congregation of Religious, November 9, 1926; *Acta Ap. Sedis,* XVIII, 490).

## Canon 633

When a professed religious has obtained permission from the Holy See to transfer to another religious organization, must he wear the habit of the new organization during the novitiate, or keep the habit of the first? *Answer:* He must wear the habit of the new organization (Sacred Congregation of Religious, May 14, 1923; *Acta Ap. Sedis,* XV, 289).

### Canon 634

Is the vote of the Chapter on the admission to solemn or simple perpetual profession of a professed member of another organization who has obtained leave to join another organization (cfr. Canon 634) decisive or merely consultive? *Answer:* The vote is decisive (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 528).

### Canon 638

May a religious who has obtained an induit of secularization or a dispensation from simple vows refuse to accept the induit or the dispensation, when he receives notice of them from the local superior, even though the Superior General has already issued the document of execution of the rescript in accordance with Canon 56? *Answer:* Yes, he may refuse to accept either induit or dispensation, provided the superiors have no grave reasons to the contrary; if they have such reasons, they shall refer the matter to the Sacred Congregation (Sacred Congregation of Religious, August 1, 1922; *Acta Ap. Sedis,* XIV, 501).

### Canon 639

Are all religious who have obtained an induit of temporary secularization *(exclaustratio)* obliged to adhere to the conditions stipulated in Canon 639? Answer; They are obliged, but the Ordinary has power to permit the temporarily secularized religious for special reasons to wear the religious habit (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 662).

### Canon 640

Does Canon 640, § 1, comprehend all religious who have obtained an induit of secularization either from the Apostolic See or from the local Ordinary? *Answer:* It comprehends all (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 662).

### Canon 642

The Holy See was requested to decide whether the prohibition of Canon 642 declaring that secularized religious cannot obtain certain offices and positions applies also to religious who were secularized before the promulgation of the Code? *Answer:* Canon 642 applies also to religious secularized before the promulgation of the Code (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575). Canon 642 is a reenactment of the Decree of the Sacred Congregation of Religious, June 15, 1909 (Acta *Ap. Sedis,* I, 523).

## Canon 643

If the dowry is not large enough to provide for the present needs of a Sister who leaves the community, is the religious organization freed from all further liability upon returning the do-wry to her, or, in accordance with Canon 643, § 2, is the community obliged to render additional aid to the Sister? *Answer:* The co unity is obliged to render further assistance (Sacred Congregation of Religious, March 2, 1924; *Acta Ap. Sedis,* XVI, 165).

## Canon 646

Regarding the application of Canons 646-672 to societies without vows, see Canon 681.

Regarding the dismissal in orders in which the religious made simple perpetual vows prior to the promulgation of the Code, see Canon 574, c.

## Canon 647

Canon 647, § 2, ordains that any religious in temporary vows, who has received the decree of dismissal from his superiors, has the right to have recourse to the Apostolic See, and that pending such recourse the decree of dismissal is suspended, and has no force in the interval. Within what time must that recourse be taken? Answer; The religious has ten days from the notification of his dismissal within which he may have recourse (Sacred Congregation of Religious, July 20, 1923; *Acta Ap. Sedis,* XV, 457).

The formalities of Canons 647-648 must be observed in dismissal of religious who took vows under the condition, "for as long as I shall live in the congregation" (see Canon 574, e).

## Canon 673

Do Canons 2386, 2387, 2389, 2410, 2411, and 2413 apply to clerical societies without vows, in so far as the members live a communal life? *Answer:* Yes, Canons 2386, 2387, 2389 apply; Canon 2410 applies, if the society enjoys the privilege to issue dimissorial letters to its subjects; Canon 2411 applies as to its first part, but, as to the rest of this Canon, the constitutions of each society must be followed; Canon 2413 applies (Committee, June 2-3, 1918; *Acta Ap. Sedis, X,* 347).

The precept of Canon 505 applies also to the Societies spoken of in Canons 673-681 (see Canon 505).

Superiors in clerical societies without vows are also obliged to make the profession of faith prescribed by Canon 1406, § 1, n. 9 (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

## Canon 678

The Sacred Congregation of Religious prescribes the following concerning the study of religion by members of teaching Brotherhoods and Sisterhoods:

(1) During the postulate and novitiate the Brothers and Sisters should be so thoroughly instructed in Christian Doctrine that they not only know it by heart but can also correctly explain it, and they shall not be admitted to vows without a sufficient knowledge and a previous examination.

(2) After the novitiate all religious who are to teach Christian Doctrine in the primary schools, public or private, are to be instructed in catechetics and in the art of teaching the same to children, so that they may be able to pass an examination before the local Ordinary or a committee delegated by the Ordinary.

(3) For the questions to be answered in this examination, the schedule may be used which is employed by the Vicariate of Rome for the teachers of religion in the elementary schools.

(4) If the religious do not teach in school but in private houses, they shall obtain from the local Ordinary a certificate of qualification for such work (November 25, 1929; *Acta Ap. Sedis,* XXII, 28).

## Canon 681

Canon 681 prescribes that, in the dismissal of members of all societies without vows, Canons 646-672 are to be observed. Now', these Canons have various precepts for the various cases of temporarily and perpetually professed religious. Wherefore, the question arises as to the application of Canon 681 which speaks of persons who have no vows. .Answer; If the bond which binds the member of a societv without vows is temporary, the Canons which treat of the dismissal of temporarily professed religious are to be applied; if the bond is perpetual, the Canons on the dismissal of perpetually professed religious must be applied (Committee, March 1, 1921; *Acta Ap. Sedis* XIII, 177).

# PART III

## CONCERNING THE LAITY

### Canon 684

The Holy See has issued a warning against the Young Men's Christian Association and an exhortation to the bishops of the Catholic Church to keep Catholics from joining the Association because it leads to rationalism and religious indifferentisin (Holy Office, November 5, 1920; *Acta Ap. Sedis,* XII, 595).

Ordinaries should not permit their clergy to join Rotary Clubs (see Canon 138).

Regards theosophist societies and associations to promote Christian Union, see Canon 2316.

### Canon 702

For the new Rule of the Third Order of St. Francis, see Appendix X.

### Canon 707

Desirous to abolish certain abuses, a certain bishop asks the Holy See whether he can make use of the rights and means enumerated in Canons 707 sq., in connection with the Society of St. Vincent de Paul established in his diocese. *Answer:* It is the desire of the Sacred Congregation to inform the bishop that he has, with reference to that society, the right and the duty of watching it, and to see that it does not attempt anything against the faith and custom and to correct and suppress incipient abuses. Even associations that are not strictly ecclesiastical *(vere ecclesiastica:)* are subject to the vigilance of the Ordinary, especially when they engage in activities subject to episcopal supervision (Sacred Congregation of the Council, November 13, 1920; *Acta Ap. Sedis,* XIII, 135).

### Canon 711

The Apostolic See has declared (1) that Canon 711, § 2, is not to be understood in such a sense that the local Ordinaries are strictly bound to institute in every parish the Confraternity of the Blessed Sacrament, but that they may, according to circumstances, establish a

## Canon 711 *(Continued)*

pious union or sodality of the Blessed Sacrament, (2) that to the Archconfraternity of the Blessed Sacrament erected at Rome only confraternities strictly so-called are *ipso iure* aggregated, not pious unions and other sodalities of the Blessed Sacrament (Committee, March 6, 1927; *Acta Ap. Sedis,* XIX, ICI).

## Canon 713

Regarding the Pious Union of the Clergy, see Appendix XI.

# BOOK III

## CONCERNING THINGS

# PART I

## CONCERNING THE SACRAMENTS

### Canon 756

Does a child baptized at the request of its parents by a minister of another rite, in violation of the precept of Canon 756, belong to the rite in which it is baptized or to the rite in which it should have been baptized in accordance with the precept of Canon 756? *Answer:* As the case is explained, the child belongs to the rite in which it should have been baptized (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 478).

### Canon 759

For various decisions regarding baptism in a private home, see Canon 776.

### Canon 762

An Instruction of the Sacred Congregation of the Sacraments recalls that the Church from the earliest times considered the sponsors in baptism and confirmation as the spiritual parents of the one baptized or confirmed. From this spiritual relationship arose in the course of time the impediment of marriage, and Emperor Justinian embodied that law in his Code of the Roman Civil Law. The Code of Canon Law retains in substance the rules on the spiritual relationship in Baptism and Confirmation (Canons 768, 797), but it narrows the limits of the impediment of marriage in the spiritual relationship from Baptism and abolishes the impediment of marriage from spiritual relationship in Confirmation.

The Church has always considered the office of the sponsors as a matter of great importance. Pope Nicholas teaches: "The man must love his sponsor in Baptism like his father." The *Decretum Gratiani* has an exhortation in which the sponsors are admonished to consider

Canon 762 *(Continued)*

themselves sureties before God for those whom they lift from the sacred font (c. 105, D. IV, *De consecr.).* The Church has unceasingly admonished the sponsors that they are under obligation to see to the religious instruction of their godchildren, and several Instructions of the Holy Office are referred to in proof of the solicitude of the Church that the office of sponsor may be held sacred.

The Catechism of the Council of Trent insists on the obligation of the sponsors to care for the spiritual training of their godchildren (in case the parents neglect to do so), and the Code of Canon Law (cfr. Canon 769) states that the sponsors have the obligation to see that their godchildren lead a virtuous life, for the sponsors promised the Church that they would.

As to Confirmation, the bishop in the address to the sponsors contained in the *Pontificale Romanum* admonishes the sponsors to instruct their godchildren in good morals, teach them to avoid sin and do good, and to teach them the Credo, Our Father and Hail Mary, for that is their obligation. Canon 797 of the Code of Canon Law states that the sponsor has the obligation to take a lasting interest in his godchild and to procure for him Christian education. Wherefore, the Church always forbade the admission to sponsorship of persons who cannot or are not willing to fulfill this obligation.

In modern times little or nothing is thought of the important office, as the Catechism of the Council of Trent complains bitterly. Yet, there was never a greater need for religious instruction than today. The Holy See, therefore, demands that bishops and priests make every effort to impress the Catholic people with the importance of the office of the sponsors.

The proper pastor of the candidate for baptism should not admit sponsors who arc not properly qualified for the office or not willing to take an interest in the spiritual welfare of their godchild. If the sponsor himself cannot be present in person, he may indeed appoint another person to represent him, but that appointment must be made in such a way that one is certain as to the person who takes the responsibility as sponsor, and ordinarily the appointment of the proxy should be made in writing or before witnesses in order that it may be certain who is the responsible person. Tn the record of Baptism or Confirmation both the name of the sponsor and his proxy should be entered. The Holy See does not approve of the manner of acting of those sponsors who have accepted the office but do not personally attend Baptism or Confirmation, and do not even ask another person to act for them but leave it to the priest or to the parents to

get someone to represent them (Sacred Congregation of the Sacraments, November 25, 1925; *Acta Ap. Sedis,* XVIII, 44).

## Canon 765

If a sponsor desires to act by proxy, he himself should appoint his representative. The custom that leaves the appointment to the parents of the infant or to the baptizing priest, the sponsor being unconcerned in the matter, makes sponsorship doubtful, and therefore the custom should be abolished (Sacred Congregation of the Sacraments, July 29, 1925; *Acta Ap. Sedis,* XVIII, 43).

## Canon 768

Docs spiritual relationship contracted before Pentecost, 1918, which then was an impediment of marriage but is no impediment any longer in virtue of Canon 7G8 (which has restricted the cases of spiritual relationship as impediments of marriage), cease automatically with the promulgation of the Code in reference to all consequences of that relationship, or does it cease as impediment of marriage only? *Ansicer:* The spiritual relationship merely ceases to be an impediment of marriage; duties arising out of that relationship (e.g., care for the spiritual interest of the godchild in Confirmation) remain (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 346).

## Canon 774

(a) Does a church, which before the promulgation of the Code enjoyed the legitimate right of having a baptismal font to the exclusion of other parish churches (of the same place), retain a cumulative right with the churches which by precept of Canon 774 have the right to a baptismal font? *Answer:* Canon 774 is to be understood in such a sense that the church which formerly had an exclusive right to all the baptisms of a city or town has now a cumulative right with all the other parish churches of the city or town, even with the newly erected parish churches. For the future, however, no parish church can by custom acquire a cumulative right of the baptismal font (i.e., the right to baptize persons domiciled in other parishes of the same city or town at the option of those who present themselves or who present children for baptism). That custom is condemned as a corruption of law. Besides, the church which has the right to baptize persons from any parish of a city or town, must, in accordance with Canon 778, notify the pastor of the domicile of the administration of baptism (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 662).

## Canon 774 *(Continued)*

*(b)* The question was asked whether and how the blessing of the baptismal font is to be done in parish churches which have branched off from an original parish, and whether the custom of blessing the baptismal font once a year only, on Holy Saturday, may be tolerated? *Answer:* The font must be blessed in those churches in the manner prescribed by the rubrics of the Roman Missal, and the blessing must take place on Holy Saturday and on the vigil of Pentecost; contrary custom cannot be tolerated (Sacred Congregation of the Council, June 10, 1922; *Acta Ap. Sedis,* XV, 225).

## Canon 776

Concerning Baptism in private houses, the Holy See has been requested to decide whether it is in harmony with the law of the Code to give Solemn Baptism in private houses to infants who are not in danger of death, but cannot without danger be brought to church. The Sacred Congregation of the Sacraments prefaces its answer with the observation that every man or woman may give Private Baptism when there is positive danger that an infant may die before the priest can be had. If a priest or deacon baptizes in danger of death, Canon 759, § 1, directs that he confer Private Baptism and employ the ceremonies which follow Baptism, if time permits. The rest of the ceremonies of Solemn Baptism are to be later on supplied in church.

As to Baptism by the priest at a private house when there is no danger of death, the Sacred Congregation repeats what Canon 776, § 1, n. 2, states, that the bishop may in some extraordinary case permit Solemn Baptism in a private house. It is committed to the prudent judgment of the local Ordinary to decide in each individual case whether the particular circumstances are of such a serious nature as to allow an exception from the general rule that Solemn Baptism is not to bo conferred in private houses (July 22, 1925; *Acta Ap. Scdis,* XVII, 452). A former declaration of the Sacred Congregation of Rites. January 17, 1914 (Acta Ap. *Sedis,* VI, 32), answered in the affirmative the question whether Baptism given at home with permission of the local Ordinary outside the danger of death and urgent necessity is to be administered with all the ceremonies. The right of the local Ordinary to permit Baptism with all the ceremonies of Solemn Baptism in private houses is limited by the Code (cfr. Canon 776) and the above declaration to permission in each individual case and to extraordinary circumstances.

## Canon 777

Does the term "illegitimates" in Canon 777, §2, comprehend all illegitimate persons, even adulterous, sacrilegious and other spurious offspring, so that it is permissible to enter the names of their parents in the baptismal records? *Answer:* The names of the parents must be entered in such a manner that all occasion for defamation is avoided; in special cases, however, recourse should be had to the Sacred Congregation of the Council (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 528).

## Canon 788

Concerning the age of the persons to be confirmed, Canon 788 is to be understood in such a way that Confirmation in the Latin Church is not to be conferred until about the seventh year of age except in the cases mentioned in the same Canon (Committee, June 16, 1931; *Acta Ap. Sedis,* XXIII, 353). Furthermore, the Sacred Congregation of the Sacraments states that ordinarily Confirmation should follow Baptism because it is the completion and perfection of the Sacrament of Baptism, and Holy Communion should come after Confirmation. Nevertheless, one should not think that the children who have reached the years of discretion and are sufficiently instructed are to be prohibited from receiving Holy Communion though they have not yet had an opportunity to receive Confirmation (Sacred Congregation of the Sacraments, June 30, 1932; *Acta Ap. Sedis,* XXIV, 271).

## Canon 793 sqq.

Concerning the obligations of sponsors, see Canon 762.

## Canon 798

In a certain diocese it had been the custom for several centuries for the Canon Sacristan to make up and keep one Confirmation record of all the persons confirmed in the diocese. After the promulgation of the Code, the Ordinary of the diocese directed the Canon Sacristan to send a copy of the Confirmation record to the various pastors. The Canon Sacristan objected to the decree of the Ordinary, and had recourse to the Holy See. *Answer:* The precept of Canon 798 by which each pastor is obliged to keep the record of Confirmation is to be observed; the Canon Sacristan is to be freed from his duty of keeping the Confirmation record [Sacred Congregation of the Council, *(in Causa Melphictensi),* February 8, 1919; *Acta Ap. Sedis,* XI, 280].

Regarding the special arrangements for Russia, see Canon 1103, b.

### Canon 804

For special regulations to be observed when a visiting Oriental priest wishes to say Mass in a church, see Appendix XII. Regarding the collection of alms, etc., by Oriental clerics, see Canon 98, c.

### Canon 806

Priests who say only one Mass on All Souls' Day must use the first of the three formulas; those who say two Masses must use the first and second. The priest may always say one Mass for his own intentions; if he says two, one must be for all the faithful departed; if he says three, one must also be for the Holy Father's intentions (Sacred Congregation of Rites, Feb. 28, 1917; *Acta Ap. Sedis,* IX, 18G).

May a priest who because of poor eyesight or other just cause has obtained an Induit to say some Votive Mass, say three Masses on All Souls' Day, using the formula of the *Missa quotidiana defunctorum?* May the same priest say three Masses on Christmas Day? *Answer:* In both cases he may say three Masses (Sacred Congregation of Rites, Jan. 26, 1920; *Acta Ap. Sedis,* XII, 122).

### Canon 808

(a) With reference to the Eucharistic fast, priests who have to say two Masses on Sundays or holydays of obligation, or one Mass at a very late hour, or who on account of work, long distance of travel, poor health, and other reasons cannot keep the fast without great harm to themselves, may apply to the Holy Sec for dispensation, and, if necessary, the Holy See shall grant habitual faculties to the bishops to give the dispensation. Even now, in more urgent cases where recourse to the Holy See cannot be had, the faculty is granted to the bishops to dispense with the law of the Eucharistic fast. Liquid food only shall be allowed, to the exclusion of intoxicants. The bishop who in an urgent case grants the dispensation, shall as soon as possible inform the Holy See (Holy Office, March 22, 1923; *Acta Ap. Sedis,* XV, 151).

*(b)* May priests who have obtained a dispensation from the Eucharistic fast take the ablution in the first Mass, if they have to say another Mass? Answer: Yes, they may take the ablution (Holy Office, November 16, 1923; *Acta Ap. Sedis,* XV, 585).

### Canon 811

The use of the so-called Gothic vestments for Holy Mass is a deviation from the established use of the Roman vestments. Without consulting the Holy See, it is not lawful to deviate from the

present established custom (Sacred Congregation of Rites, December 9, 1925; Acta *Ap. Sedis,* XVIII, 58).

A Decree of the Sacred Congregation of the Council of July 28, 1931 (Acta A;>. *Sedis,* XXIII, 336), urgently admonishes the exact observance of the precepts of this Canon, especially to the wearing of suitable garb during the administration of the Sacraments. Pastors and rectors must allow no priest to celebrate in their churches unless he wears the ecclesiastical dress mentioned in Canon 804, § 2, and Ordinaries are to exercise great vigilance in this matter.

## Canon 813

(a) May the people who assist at Mass answer the priest in place of the server? *Answer:* What is in itself permissible is not always advisable, and, as confusion and disturbance may be caused to both priest and people by this manner of answering the priest, the common practice of having a server answer the priest should rather be followed.

It was further asked, whether the people who assist at Mass may read with a loud voice the Secrets, Canon and the words of consecration. *Answer:* That custom may not be retained because the Canon of the Mass should be read in a low voice by the priest, and it is not proper that the people read it in a loud voice (Sacred Congregation of Rites, August 4, 1922; *Acta Ap. Sedis,* XIV, 505).

(&) Arc the rubrics of the Missal which prescribe that the server sound a small bell at the Sanctus and at the Elevation of the Host and the Chalice, to be applied also to *Missa Cantata,* to Solemn High Masses and to Pontifical Masses, concerning which Masses the rubrics are silent as to the ringing of a bell? *Answer:* Yes, the bell should be sounded also in these Masses, and, if the custom of some churches differs from the general practice and the common interpretation of the rubrics, it should be brought into conformity with the general practice, unless in place of a small bell they employ another appropriate signal. It is advisable also that, in accordance with the common practice of the Church, the bell be sounded shortly before the Consecration to attract the attention of the people (especially of those who are at a distance from the altar) to the impending solemn moment of the Mass [Sacred Congregation of Rites *(in Causa Romana),* October 25, 1922; *Acta Ap. Sedis,* XIV, 557].

## Canon 815

With reference to the altar breads, the Iloly Sec has declared that the custom of getting fresh altar breads once only in two or three months is to be condemned, and the precept of the Roman Ritual (tit.

## Canon 815 *(Continued)*

IV, cap. 1) and of the Code (Canons 815 and 1272) is to be observed (Sacred Congregation of the Sacraments, December 7, 1918; *Acta Ap. Sedis,* XI, 8).

For the complete Instruction on altar breads and wine, see Appendix XIII.

## Canon 821

With reference to midnight Mass on extraordinary occasions, the Holy See has granted general permission on the occasion of Eucharistic Congresses, if the Blessed Sacrament remains exposed for public veneration throughout the whole night, that one Mass be said at midnight and at it all who assist may receive Holy Communion. The priest who takes part in the adoration at night may say Mass immediately after the one Mass celebrated for the people, or one hour after midnight. As to midnight Mass on other occasions, the Sacred Congregation of the Sacraments can grant permission under the following conditions: (1) on extraordinary occasions only; (2) the Mass may not begin until half an hour after midnight; (3) the adoration at night must be continued for about three hours; (4) all danger of irreverence must be removed (Sacred Congregation of the Sacraments, April 22, 1924; Acta Ap. *Sedis,* XVII, 100).

## Canon 822

(a) Concerning the time and place of Holy Mass, the Apostolic See was requested to declare whether the faculty of the Code in Canon 822, § 4, which grants to the Ordinary faculty to allow the celebration of Holy Mass in private houses in some individual and extraordinary case, is to be interpreted in a restrictive sense. *Answer:* Yes (Committee, October 16, 1919; *Acta Ap. Sedis,* XT, 478).

(b) May Canon 822, which grants faculty to the local Ordinarj' to allow the celebration of Holy Mass outside churches and chapels destined for the celebration of the divine mysteries, be interpreted in such a sense that the Ordinary has faculty to allow the saying of Mass outside the proper places also on the occasion of a profane celebration and political gatherings? *Answer:* No, it cannot (Sacred Congregation of the Sacraments, July 26, 1924; *Acta Ap. Sedis,* XVI, 370).

(c) The local Ordinary may not permit the celebration of Holy Mass in a private house in the room where the corpse is laid out, except in some extraordinary case and for a good and sufficient cause. The Holy See declares that an "extraordinary case" and a just and

sufficient cause exists on the occasion of the death of a local Ordinary, or a member of the family of a prince, or of a person otherwise prominent for merits and benefactions towards the Church or the State oi' for very liberal donations towards the poor and needy, or of a person who had received from the Holy See the privilege of having Holy Mass said in his private house. Not more than three Masses may be allowed by the local Ordinary, even in the case of a bishop. The regular funeral services in church may not be omitted (Sacred Congregation of the Sacraments, May 3, 1926; *Acta Ap. Sedis,* XVIII, 388).

## Canon 824

(a) If the local Ordinary has obtained an Induit from the Holy See by which his priests may take a stipend for the second Mass on Sundays and holydays of obligation, or an Induit by which the pastors are released from the obligation of applying the Mass for the people, may he oblige the priests to apply the bination Mass or the Mass for the people in favor of a pious cause? *Ansiver:* Yes, he may.

In that case, may the bishop demand only the amount of the stipend as fixed by the law of the diocese and leave the excess to the priests? Answer.· If the stipend has been legitimately fixed, the entire stipend must be given to the pious cause, but the local Ordinary has the faculty to assign a certain portion of the stipend to the priests for reason of the inconvenience and labor. If the offering for the Mass has not been fixed by law (e.g., if a certain number of Masses are to be said by the holder of a benefice, in which case there is no fixed stipend for each Mass), the ordinary stipend of the diocese is to be given to the pious cause, and the Ordinary may allow the priest to retain a portion of the stipend for reason of the inconvenience and labor [Sacred Congregation of the Council (in *Causa Viglevanensi),* May 8, 1920; Acta Ap. *Sedis,* XII, 536]. In another case the same Sacred Congregation ruled that, if the stipend for the bination Mass is larger than the ordinary stipend and the excess is given to the priest for personal reasons or because of unusual labor and inconvenience attached to saying the Mass (e.g., a very late hour, a distant place), the excess beyond the ordinary stipend need not be given to the pious cause (November 10, 1917; *Acta Ap. Sedis,* X, 368).

(&) In a certain diocese it was the custom for the pastor to pay the assistants a fixed sum of money each month, and for the assistants to apply Mass for the intention of the pastor, who kept the stipends. One half of the payments was considered to be for the work of the assistants, the other half for the Masses which they had said. The Sacred Congregation of the Council declares that the custom may be

Canon 824 *(Continued)*

tolerated, but the Ordinary of the diocese (who was at that time an Apostolic administrator) should rather try to introduce the diocesan statute by which the assistants receive a certain salary, to be supplemented by Mass stipends which should be given to them entire [Sacred Congregation of the Council *(in Causa Montisvidei et aliarum),* January 10, 1920; *Acta Ap. Sedis,* XII, 70].

(c) Does Canon 824 abolish the Decree of the Sacred Congregation of the Council, October 15, 1915 *(Acta Ap. Sedis,* VII, 401), in which it was forbidden to receive any remuneration, even for extrinsic labor or inconvenience, for the saying of the second or third Mass on All Souls' Day? Answer; The Decree is abolished (Committee for the Authentic Interpretation of the Code, December 13, 1923; Acta *Ap. Sedis,* XVT, 116).

*(d)* Regarding the collecting of Mass stipends by Oriental clerics in dioceses of the Latin Rite, see Canon 98, c.

Canon 827

The Archbishop of Montevideo explains that, within his archdiocese, novena Masses and Gregorian Masses are celebrated with certain exterior solemnities, and a larger stipend than the usual is offered for these Masses. Now, if the pastor has these Masses said by other priests, may part of the stipend be retained by the pastor for his church, because the pastor has considerable trouble in finding priests to say the Masses, has the responsibility for them, and has the work of arranging the more solemn celebration, and besides the Gregorian Masses at times take the place of the funeral Masses? *Answer:* As the matter is explained, no part of the stipend can be retained, but the Sacred Congregation wishes to inform the archbishop that, in the case of Masses which are said with exterior solemnity and Masses which take the place of funeral Masses, he should decree a moderate tax for the benefit of the pastor, which is not to be taken from the stipend but paid in addition to the stipend, and those who make the offerings are to be instructed concerning this matter (Sacred Congregation of the Council, April 16, 1921; *Acta Ap. Sedis,* XIII, 532).

Canon 828

Is it permissible, with the consent of those persons who make the offerings, to combine two or more intentions for High Masses, so that one is sung for the combined intentions in the local church, and the others are celebrated elsewhere for the combined intentions? Fur-

thermore, is it permissible, with the consent of those who make the offerings, to combine two or more intentions for High Masses so that one only is said with greater solemnity for the combined intentions, provided that only the ordinary stipend of the diocese is taken, and the rest of the offerings are given to charities? *Answer:* The Sacred Congregation desires the Ordinary to abolish these practices prudently. In accordance with Canon 836, the people are to be informed by public notice posted in a conspicuous place that not all the High Masses requested can be said in the parish church because of the great number of Masses ordered, but that they will be said in other churches (Sacred Congregation of the Council, July 9, 1921; *Acta Ap. Sedis,* XIII, 501).

## Canon 838

Does Canon 838 abolish the precept of a Provincial Council by which the priests are forbidden to transfer Mass stipends to priests outside their own diocese without permission of their Ordinary? Answer; In reference to foundation Masses and Masses *ad instar manualium* and Masses given for the benefit of a charitable institute *(causa pia),* the law of the Provincial Council remains in force; in reference to other Mass stipends, Canon 838 applies. This Canon permits priests to transfer manual Mass stipends to priests outside the diocese, which permission of the common law cannot be taken away or restricted by authorities inferior to the Holy See (Sacred Congregation of the Council, February 19, 1921; *Acta Ap. Sedis,* XIII, 228).

## Canon 845

If a deacon distributes Holy Communion, he shall at the end of the sacred rite bless the people with his hand just as the priest does (Committee, July 13, 1930; *Acta Ap. Sedis,* XXII, 365).

## Canon 847

The Holy See has declared that the just and reasonable cause for which Holy Communion may be taken privately to the sick (cfr. Canon 847) is not to be judged by the priest but by the local Ordinary. However, when the Ordinary knows from common experience and opinion that the private carrying of the Blessed Sacrament in his diocese or some places in the same is not considered improper, ho should not insist on the public administration by general regulations and by reserving to himself permission in each case for private administration so as to hinder the frequent and even daily Communion of the sick (Sacred Congregation of the Sacraments, January 5, 1928; *Acta Ap. Sedis,* XX, 81 ).

## Canon 848

Regarding the administration of the Last Sacraments to religious, see Canon 514.

## Canon 849

If Holy Communion is given to a number of sick persons in the same house or hospital who are in different rooms, the priest should recite in the plural all prayers of the Ritual before Communion in the first room. In the other rooms he shall say: *Misereatur tui, Indulgentiam, Ecce Agnus Dei,* and once *Domine non sum dignus.* Then to each: *Accipe Frater (soror), or Corpus Domini.* In the last room he adds *Dominus vobiscum,* and the oration, *Domine sancte,* in the plural, and if he has any sacred hosts left over, he gives the blessing with the Sacrament. The other prayers he says in church as prescribed (Sacred Congregation of Rites, January 9, 1929; *Acta Ap. Sedis,* XXI, 43).

## Canon 854

Must the use of reason that is necessary for the reception of Holy Communion be such that a person is capable of committing mortal sin, or does the use of reason sufficient to commit venial sin suffice for admission to Holy Communion? *Answer:* Canon 854, 2-3, indicates the use of reason sufficient for admission to Holy Communion, and Canon 906 indicates the use of reason sufficient to subject a person to the precept of annual confession (Committee, February 24, 1920; *Archie fur katholisches Kirchenrccht,* CI, 68).

See also the decisions with regard to the age for Confirmation (Canon 788).

## Canon 855

A woman who was living in public concubinage with one of her relations had been absolved by a missionary and been permitted to go to Holy Communion. The pastor objected to the action of the missionary, and referred the case to the local Ordinary. The latter decreed that the woman shall not be admitted to Holy Communion, until she has separated from the man with whom she lived in public concubinage, and had made reparation for the scandal, as prescribed by Canon 855. The missionary referred the case to the Holy See, asking whether the Ordinary had the right to insist on his decree in case the separation could not take place without great difficulty, and the parties had promised to abstain from sinful relations. He suggests that the reparation of scandal is possible by other means than separation (c.g., frequent Communion for a year), and desires to

know what the missionaries are to do under similar circumstances. Answer; They must obey the decree of the Ordinary (Sacred Congregation of the Council, November 18, 1922; *Archiv fiir katholisches Kirchenrecht,* CHI, 1G2).

## Canon 859

Are children who have not yet reached seven years, but who because of their sufficiently developed understanding are admitted to first Holy Communion, subject to the two precepts of annual confession and Holy Communion? *Answer:* They are subject to both laws (Committee, January 3, 1918; *Archiv fiir katholisches Kirchenrecht,* IC, 62).

## Canon 867

In virtue of Canon 867, § 4, may Holy Communion be distributed without an Apostolic induit in the Midnight Mass on Christmas Day in parochial and conventual churches, whenever there is in the judgment of the Ordinary a reasonable cause for so doing? Answer; Yes (Committee, 1920; *Archiv fiir katholisches Kirchenrecht,* CIII, 170).

## Canon 869

The Holy See was asked whether on sick-calls to people living in the mountains or country far away from a church Holy Communion could be administered, besides to the sick, also to others who cannot that day go to church. The answer was that they may receive provided the local Ordinary gives permission, and he can give it only in individual cases and on specified occasions *(per modum actus),* not permanently (cfr. Canons 869 and 822, §4). In the remarks added *ex officio* by the Secretary of the Sacred Congregation it is stated that the Ordinary may delegate this faculty to pastors for cases of urgent necessity when it is practically impossible to reach the Ordinary. To the further question whether the Sacrament of Penance and Holy Communion may lie administered to those who are through sickness detained at home, the Sacred Congregation of the Sacraments answered that as far as Holy Communion is concerned the answer to the first question suffices, and in reference to confession it may be heard provided Canons 910, 1 and 2, and 909, 1 and 2, are observed (January 5, 1928; *Acta Ap. Sedis,* XX, 79).

## Canon 874

May pastors, parochial vicars and other priests delegated for a universality of cases delegate jurisdiction for confession to other priests, or may they at least extend the jurisdiction of priests already

### Canon 874 *(Continued)*

approved outside the place and persons for which they have faculty to hear confessions? *Answer:* No, they cannot do so without a special faculty or mandate from the local Ordinary (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 477).

### Canon 882

The Holy See was asked whether absolution in danger of death according to Canon 882 is limited to the *forum internum,* or whether it also extends to the *forum externum?* The answer was: It is limited to the *forum internum,* and does not extend to the *forum externum* (Committee, December 28, 1927; *Acta Ap. Sedis,* XX, 61).

### Canon 883

Is the adverb "obiter," occurring in Canon 883, § 2, to be understood in such a sense that the priest (who, in accordance with the first paragraph of the same Canon, has faculty to hear confessions during an ocean trip) may, whenever the boat stays in a port, go ashore and there in a church or chapel hear the confessions of those who present themselves and absolve them validly and licitly, even from cases reserved to the local Ordinary? For how long may he do so—one or two or three days, if the boat stops that long? Furthermore, may the traveling priest hear confessions for one, two or three days, if he comes to a port where he has to change boats? Finally, may the priest hear confessions for more than three days? *Answer:* He may hear confessions in the port for three days, and it is immaterial whether one's boat stops on its voyage or whether one has to change boats; he may not hear confessions for longer than three days, if the local Ordinary can be easily reached (Committee, May 20, 1923; Acta *Ap. Sedis,* XVI, 113).

### Canon 893

Are strangers *(peregrini),* in accordance with Canon 893, bound by the reservations of the place where they stay? *Answer:* They are bound (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

### Canon 900

The term "quævis reservatio" in Canon 900 has reference only to reserved sins, not to reserved censures, but it includes sins reserved to the Holy See as well as those reserved to the bishop (Committee, November 10, 1925; *Acta Ap. Sedis,* XX II, 583).

## Canon 909

Does the precept of Canon 909 (which ordains that there must be between the confessor and the penitent a fixed grating with small perforations) determine the proper manner of hearing confessions of women only, or also of all penitents generally in churches and public oratories? *Answer:* It is the proper manner for all confessions, without prejudice, however, to the permission given by Canon 910, § 2, that the confessions of men may be heard also in private houses (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 576).

## Canon 911

The Sacred Penitentiary, acting under the express command of His Holiness, has issued a Decree revoking the faculties to bless religious articles with indulgences and other analogous concessions granted to the members of certain societies and associations.

Each and every concession made to pious associations of whatever name or nature, even those consisting of priests only (no matter where and when and how and why these concessions were made), whereby priests were granted faculties and induits to bless objects of devotion and to attach to them the Apostolic Indulgences or those of St. Bridget, to bless beads and attach indulgences to them, bless crucifixes with the indulgences of the Way of the Cross and with the Indulgence of a Happy Death, to give the Papal Blessing at the end of a sermon, to concede the induit of the personally privileged altar—all these concessions are revoked by the present Decree and are entirely abolished in such a way that from the very date of its publication those faculties cease absolutely.

If priests henceforth desire to obtain some of the above-mentioned faculties or induits, they should know that they can directly and immediately get them from the Sacred Penitentiary provided with every application they forward letters of recommendation of their own Ordinary.

Concerning the privileges granted to some religious Orders and Congregations to bless beads with indulgences, to bless crucifixes with the Indulgences of the Way of the Cross, to erect the Stations of the Way of the Cross, those remain under the condition that from now on the members of those Orders and Congregations may use them personally but may not grant those faculties to other priests who are not members of the Orders or Congregations. If the latter wish to get these faculties, they must apply for them to the Sacred Penitentiary in the manner stated above. The present Decree shall be observed not-

## Canon 911 *(Continued)*

withstanding anything to the contrary, even those concessions which are not revoked unless special and individual mention is made of them (Sacred Penitentiary, March 20, 1933; *Acta Ap. Sedis,* XXV, 170).

## Canon 912

Even though the regulations concerning religious articles to be blessed with the Papal Indulgences state that these objects may not be of lead, glass, etc. (cfr. Decree, February 17, 1922), beads made of solid glass or crystal may be blessed with those indulgences (Sacred Penitentiary, December 21, 1925; Acta *Ap. Sedis,* XVIII, 24).

## Canon 914

May a bishop who rules over several dioceses transfer *iure proprio* the Papal Blessing annexed to Easter Sunday to another day in one of the dioceses? *Answer:* No (Committee, February 17, 1930; *Acta Ap. Sedis,* XXII, 195).

## Canon 922

(a) Concerning the transference of the Portiuncula Indulgence to the Sunday after August 2, see Canon 934, in.

(δ) When a feast to which an indulgence is attached is legitimately transferred, but only temporarily and without solemnity and external celebration, the questions arise: (i) whether the indulgence ceases or remains attached to the day, and (ii) if it remains attached to the day, whether it remains thus attached if the feast is transferred because it falls on Good Friday? Answer: The indulgence remains attached to the day, even if the feast is transferred on account of falling on Good Friday (Sacred Penitentiary, February 18, 1921; Acta *Ap. Sedis,* XIII, 1G5).

(c) If the Commemoration of Al! Souls is not kept on November 2 (for example, because that day falls on a Sunday), the indulgences are transferred to the day on which All Souls' is kept (Holy Office, December 14, 191G; *Acta Ap. Sedis,* IX, 179). By declaration of the Holy See, no particular feast of any country or dioeo-e or religious organization which falls on November 2, can displace the Commemoration of All Souls; a Sunday only impedes its celebration, in which case All Souls* Day is kept on Monday. November 3 (Sacred Congregation of Rites, February 28, 1917; Acta *Ap. Sedis,* IX, 18G).

## Canon 924

Docs Canon 924, § 2, abolish the Decree of Pope Alexander VII, February 6, 1G57, which has been renewed by each Supreme Pontiff at the beginning of his Pontificate and lastly by Pope Benedict XV, September 5, 1914, and which ordains that the so-called Apostolic Indulgences attached to prayer beads and other religious objects arc granted in such a manner that they do not profit other persons except those for whom the objects were blessed or to whom they were first given, and that the indulgences cannot be gained if these objects are given to others? *Answer:* Those Decrees are abolished, and the sacred objects lose their indulgences only when the blessed objects are sold or destroyed (Sacred Penitentiary, February 18, 1921; *Acta Ap. Sedis,* XIII, 1G4).

## Canon 927

Local Ordinaries are not forbidden by Canon 349, § 2, n. 2, to grant indulgences to exempt religious and in their churches (Committee, December G, 1930; *Acta Ap. Sedis,* XXIII, 25).

## Canon 930

Does the concession of the privileged altar for the dying persevere in view of the law of Canon 930? If so, how is that plenary indulgence to be understood, and must the priest who says Holy Mass for several persons who are dying specify to which he wishes the indulgence to be applied? *Answer:* The Induit perseveres; the indulgence is to be understood as applied to the sick persons before their death and after the manner of an absolution, and the priest need not single out one person, if he says Mass for several dying persons (Holy Office, November 9, 1922; *Archiv fiir katholisches Kirchenrecht,* CIII, 156).

## Canon 931

For the gaining of the Portiuncula Indulgence it is not necessary that the Confession and Communion precede the visits; it suffices if the Sacraments be approached within the succeeding week in accordance with this Canon (Declaration of the Sacred Penitentiary, published in the *Acta O. F.* M., 1928, 117).

## Canon 933

By special concession of Pope Pius XI, other indulgences may be gained together with the Apostolic Indulgences by the same prayers or good works (Sacred Penitentiary, June 14, 1922; *Acta Ap. Sedis,* XIV, 394).

## Canon 934

(a) Persons who are mutilated or crippled so that they cannot perform certain acts (e.g., making the sign of the cross, genuflecting before the Blessed Sacrament) to which indulgences are attached, may gain the indulgences by saying the prayers without genuflecting, etc. (Sacred Penitentiary, October 22. 1917; *Acta Ap. Sedis,* IX, 539).

(b) Clerics in major orders who recite the entire Divine Office, though at various times, in a place where the Blessed Sacrament is reserved, gain a plenary indulgence under the usual conditions (Sacred Penitentiary, October 23, 1930; *Acta Ap. Sedis,* XXII, 493).

(c) If a cleric in major orders is dispensed from saying the Divine Office so that he may substitute other prayers for it, he can gain the plenary indulgence by saying those prayers in the presence of the Blessed Sacrament (Sacred Penitentiary, November 7, 1932; *Acta Ap. Sedis,* XXIV, 411).

(<Z) Religious Sisters with solemn or simple vows who arc by their Constitutions obliged to say the Divine Office, may gain the plenary indulgence by saying the Office in the presence of the Blessed Sacrament (Sacred Penitentiary, December 5, 1930; *Acta Ap. Sedis,* XXIII, 24).

(c) Visits to the Blessed Sacrament and recitation of five Our Fathers, Hail Marys and Glory for the intention of the Supreme Pontiff arc encouraged by the grant of a partial indulgence of ten years. Persons who make such a visit each day for a week, can gain a plenary indulgence provided they confess and receive Holy Communion (Letters Apostolic, June 3, 1932; Acta *Ap. Sedis,* XXIV, 231).

(/) Λ plenary indulgence is granted to all who after Confession and Holy Communion say five decades of the Rosary in a church or chapel where the Blessed Sacrament is reserved (Letters Apostolic, September 4,1927; Acta Ap. *Sedis,* XX, 37G).

(p) Concerning the prayers to be said for the intentions of the Holy Father for the gaining of plenary indulgences, the Holy See prescribes that for every *toties quoties* plenary indulgence six Our Fathers. Hail Marys and Glory be to the Father, must be said (Sacred Penitentiary, July 5, 1930; Acta Ap. *Sedis,* XXII, 3G3).

(Zi) Concerning the Stations of the Way of the Cross the Holy See has ruled that the Crown or Beads of the Way of the Cross (by the use of which the indulgences of the Way of the Cross could be gained) is to be abolished, and all faculties to bless those beads are recalled (Holy Office, July 24, 1912; Acta Ap. *Sedis,* IV, 529). The Holy See has decreed that the indulgences cease also in reference to the beads already blessed before the Decree abolishing them was issued. It further declares that crucifixes blessed with the indulgences of the

Way of the Cross may be used for the purpose of gaining the indulgences by those only who at the time are legitimately impeded from visiting a place where the Way of the Cross is erected (Sacred Penitentiary, December 14, 1917; *Acta Ap. Sedis,* X, 30). Finally, the Holy See has declared that all other indulgences granted in past centuries for the Way of the Cross are abolished, and the following only are granted: (a) one plenary indulgence as often as one makes the Way of the Cross in some church or place where it is legitimately erected; (b) another plenary indulgence if on the day when one makes the Way of the Cross one receives Holy Communion, or once a month on the day on which one receives Holy Communion if one has made the Way of the Cross ten times during the month; (c) a partial indulgence of ten years and ten quarantines for each station if one has started the Way of the Cross and for some reason does not finish it (Sacred Penitentiary, October 20, 1931; *Acta Ap. Sedis,* XXIII, 522).

(i) Persons who cannot go to a place where the Stations of the Way of the Cross are erected, may gain the same indulgences by holding a crucifix blessed with the Indulgences of the Way of the Cross and saying twenty Our Fathers, Hail Marys and Glory. Persons who are too ill to say these prayers, may gain the indulgences by kissing such a crucifix or looking at it while a priest or any other person holds the crucifix, provided they say with a contrite heart some short prayer or aspiration in memory of the passion and death of Christ (Sacred Penitentiary, March 25, 1931; *Acta Ap. Sedis,* XXIII, 167).

*(j) A sanatio* of all defects *(quorumcumque defectuum)* in the erection of the Stations of the Way of the Cross was granted at the request of the Minister General of the Order of Friars Minor, October 22, 1932 *(Acta Minorum,* December, 1932, p. 316).

(A) In the recitation of the Holy Rosary, may the custom be observed by which after the first part of the Hail Mary the respective mystery is added—e.g., "and blessed is the fruit of thy womb, Jesus, who sweat blood for us"? *Answer:* No (Sacred Penitentiary, July 27, 1920). After this answer of the Sacred Penitentiary several bishops of Germany and Switzerland explained to the Holy Sec that for many centuries it had been the custom of their people to recite the Holy Rosary thus, and that Pope Pius IX, in the year 1859, had approved of this manner of saying the Rosary. The Sacred Penitentiary answered: Canon 943 contains the general law which in no wise revokes the concession of Pope Pius IX, and the Holy Father should be requested to extend the Induit in favor of all persons in any part of the world who arc accustomed to recite the Rosary in that manner. The Holy Father approved of the declaration of the Sacred Penitentiary, and extended the Induit as requested (Sacred Peniten-

Canon 934 *(Continued)*

tiary, January 22, 1921; *Acta Ap. Sedis,* XIII, 163). The same concession was granted to the Catholics of the Greek-Ruthenian Rite on April 29, 1930 (Acta Ap. *Sedis,* XXII, 292), and to the Catholics of the Greek-Slavonic Rite on January 31, 1931 *(Acta Ap. Sedis,* XXIII, 88).

(Z) Concerning the chanting of the Litany of the Blessed Virgin and the gaining of the indulgences attached to it, the Holy See was asked whether the practice could be continued of chanting the *Kyrie eleison* once, three invocations with one *Ora pro nobis,* and one *Agnus Dei? Answer:* In view of Canon 934, the faithful cannot gain the indulgences by such a manner of chanting the Litany, and the Holy Father urges the Ordinaries to abolish that manner of chanting the Litany (Sacred Penitentiary, July 21, 1919; *Acta Ap. Sedis,* XII, 18). It was further asked whether the choir may chant three invocations with their respective *Ora pro nobis,* and the people the fourth invocation with the *Ora pro nobis. Answer:* Yes (Sacred Congregation of Rites, October 15, 1920; *Acta Ap. Sedis,* XII, 548). Furthermore, it was asked whether the first invocations to the Blessed Trinity may be chanted in such a manner that the priest sings *Kyrie eleison, Christo eleison,* and the people repeat the same invocations; then the priest continues with *Christe audi nos, Christe exaudi nos,* and the people repeat the same; whether the *Agnus Dei* may be chanted once, and after it *Parce nobis Domine, Exaudi nos Domine, Miserere nobis? Answer:* Xo, the entire order of the Litany must be observed from the beginning to the end for the purpose of gaining the indulgences (Sacred Congregation of Rites, November 10, 1921; *Acta Ap. Sedis,* XIII, 566).

In the recitation of the Litany the invocations, *Kyrie eleison, Christe eleison, Kyrie eleison,* may be repeated by the people after each invocation pronounced by the priest (Sacred Congregation of Rites, November 6, 1925; *Acta Ap. Sedis,* XVIII, 21). That this may be done in the *chanting* of the Litany, had been declared previously.

(m) Concerning the Portiuncula Indulgence the Holy See declares that persons who gain it on August 2 in some church may gain it again in another church where the Portiuncula Indulgence is transferred to the following Sunday. The six Our Fathers, etc., must be said and no equivalent prayers will suffice (Sacred Penitentiary, January 13, 1930; *Acta Ap. Sedis,* XXII, 43; cfr. XVI, 345).

(n) The faculty to bless crucifixes with the *toties quoties* Plenary Indulgence granted cither personally by the Supreme Pontifif or by any agency of the Holy See, is to be understood in this sense only, that

any Catholic who is in danger of death and kisses or otherwise devoutly touches one of those crucifixes, though it does not belong to him, may gain a plenary indulgence provided he has received the Sacraments or, if he cannot, pronounces the Sacred Name of Jesus with a contrite heart and accepts death with resignation to the Lord as a penalty for sin (Sacred Penitentiary, June 23, 1929; *Acta Ap. Sedis,* XXI, 510).

## Canon 955

In former times some ecclesiastical colleges or seminaries had obtained the privilege to ordain their students without dimissoria! letters of the Ordinaries of these students, so that the consent of the superiors of those colleges or seminaries, or the permission of the Cardinal Protector of the college and the consent of the rector, sufficed for admission of the students to Orders. The Sacred Consistorial Congregation declares that the above privilege must cease, and the common law be observed, because the reasons for which the privilege was granted have ceased to exist. Nevertheless, the rights of the Sacred Congregation of the Propaganda granted to it by Pope Urban VIII by Brief of May 18, 1G38, and of other missionary seminaries or colleges dependent on the Sacred Congregation of the Propaganda, remain intact (Sacred Consistorial Congregation, November 6, 1920; zlcta *Ap. Sedis,* XIII, 259).

## Canon 956

(a) The Archbishop of Armagh (Ireland) proposed the following doubts: (i) Who is the proper bishop for ordination of those candidates who have no domicile (cfr. Canon 956)? (ii) Is a man who is ordained by his proper bishop for the service of another diocese incardinated into that other diocese in virtue of Canon 111, §2, or into the diocese of his proper bishop? (iii) If he is not incardinated into the other diocese by the ordination, how is he to be incardinated? *Answer:* As the first doubt is explained, the bishop of the place where the ordination takes place is the proper bishop, provided the candidate has previously acquired a domicile with the oath spoken of in Canon 956; as to the second doubt, the candidate is incardinated in the other diocese for whose service he is ordained; the third doubt is disposed of by the answer to the second (Committee, August 3, 1919; *Archie fiir katholisches Kirchenrecht,* CHI, 169).

(6) To the question whether the man who is ordained by his proper bishop for service in another diocese is incardinated in the diocese of his proper bishop or in the diocese of the strange bishop, the Committee for the Authentic Interpretation of the Code answered that he

## Canon 956 (Continued)

is incardinated into the diocese for whose service he is ordained (August 17, 1919; *Monitore Ecclesiastico,* 1920, p. 57).

(c) A strange bishop may not give first tonsure to a candidate because he wants to join his diocese. The candidate must either acquire a domicile in the new bishop's diocese or otherwise be ordained with the dimissorials of the proper bishop, that is, the bishop of his domicile (Committee, February 17, 1930; Acfa *Ap. Sedis,* XXII, 195).

## Canon 958

*Sede vacante,* the pro-vicar Apostolic can grant dimissorial letters (see Canon 310).

## Canon 969

Regarding incardination through ordination, sec Canon 956.

## Canon 973

For the complete Instruction on the scrutiny of candidates for Sacred Ordci's, see Appendix XIV.

## Canon 976

Canon 976 rules that the priesthood shall not be conferred until after the first semester of the fourth year of theology. In some religious communities it has been customary to ordain the men after three years of theology, their studies being completed in the year after their ordination to the priesthood. Now, if a dispensation is granted by the Holy See to ordain the men after three years of theology, it is granted under condition only that the newly ordained priests complete the fourth year of theology, and that they are not employed in the care of souls, in preaching and the hearing of confessions, or in any work outside the religious community which would interfere with their studies. The superiors have a grave obligation of conscience to see that these conditions are complied with, and they apply to all dispensations—no matter in what forms they were issued—granted after the promulgation of the Code (Sacred Congregation of Religious, October 27, 1923; *Acta Ap. Sedis,* XV, 549).

## Canon 984

(a) A bishop asked for a dispensation from the irregularity of bodily defect of a young cleric who during the World War had lost his entire right hand. The Sacred Congregation of the Sacraments first submitted the case to the Holy Office, and then answered the bishop that

the cleric should get an artificial hand, a doctor should testify as to what the cleric is able to do with the artificial hand, and the master of ceremonies should subject him to tests in the exercise of the ceremonies, and report the results. After the cleric had demonstrated his ability to discharge all the usual ceremonies, the dispensation was granted (July 1, 1918; *Acta Ap. Sedis,* XIII, 43G).

(b) The declaration of the Sacred Congregation of the Council that duellists and their seconds are irregular, is still in force (Sacred Congregation of the Council, February 10, 1923; *Acta Ap. Sedis, XV,* 145).

## Canon 987

(a) Is Canon 987, n. 5, to be understood in such a manner that the impediment of ordination exists if a man might be called to military service, but has not yet been called either because he is too young, or because after the physical examination he was declared temporarily disqualified for service? *Answer:* Yes, the impediment exists, and the man may not receive the tonsure or any orders before he has been definitely discharged as disqualified (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 344).

(b) In accordance with Canon 987, is a man whose father or mother is a non-Catholic, and whose other parent is Catholic, to be numbered among those impeded from the reception of orders, and does the impediment exist even though the mixed marriage was properly contracted, the promises having been made and the dispensation granted? *Answer: Yes,* the impediment exists (Committee, October 1G, 1919; Acta *Ap. Sedis,* XI, 478).

(c) Does the term "filii" in Canon 987, η. 1, imply only the descendants in the first degree in the paternal line? *Answer:* Yes (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 528).

## Canon 991

The Sacred Congregation of Religious is competent to grant dispensations for the reception of Sacred Orders to religious (see Canon 251).

## Canons 996-1000

A lengthy Instruction of the Sacred Congregation of the Sacraments, December 27, 1930 (Acta *Ap. Sedis,* XXIII, 1931, 120), demands various investigations concerning the candidates for the secular priesthood, both before the first tonsure and for the various orders, and finally demands that before each major order the candidates make the prescribed declaration and oath before the Ordinary (see Appendix XIV).

## Canon 1001

Regarding the retreat when several major orders arc received within a brief interval, see Appendix XV.

## Canon 1012

The Encyclical of His Holiness Pope Pius XI on Christian Marriage *{Casti Connubii)* refers to the present-day conditions of the families under the trying economic difficulties, points out prevailing errors concerning the nature of marriage as instituted by Christ, lists the vices by which the sacred union between the spouses is defiled, and contains the authoritative teaching of the Church on all the important moral questions relative to the Christian state of marriage (December 31, 1930; *Acta Ap. Sedis,* XXII, 539-592).

## Canon 1017

(a) When a party claims his right from valid espousals against a party who is about to marry another, must the marriage be postponed until the question of a just cause for the breaking of the betrothal and of damages, if any are due, is settled? *Answer:* No, the action concerning a just cause for the dissolution of the betrothal is no longer admitted; the action for reparation of damages does not suspend the celebration of marriage. Furthermore, the Holy See was requested to decide whether the action for the reparation of damages spoken of in Canon 1017 pertains to the ecclesiastical forum or to the civil courts? Answer; The action is one of mixed forum (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 345).

(ô) Has the Code retroactive force with reference to the modifications introduced by the Code concerning betrothal and impediments of marriage, both impedient and diriment, so that every right acquired by valid betrothal cannot be claimed in any manner except in so far as the Code concedes, and impediments of marriage contracted prior to the Code and now abolished by the Code do not need any dispensation? Answer; The Code has no retroactive force (cfr. Canons 4 and 10), but betrothal and marriage are governed by the law in force at the time when these contracts were made or will be made; as to the right of action from betrothal, Canon 1017 applies (Committee, June 2-3, 1918; *Acta* Ap. *Sedis,* X, 34G). The reason is that the right of action is now modified by the Code, and all actions which are brought after the promulgation of the Code must necessarily be judged by the law of procedure of the Code.

## Canon 1020

(a) Should the pastor refuse to marry, or delay the marriage, if either the bride or groom is found ignorant of Christian doctrine? *Answer:* The pastor shall observe the precept of Canon 1020, and, in doing what the Code demands, he shall teach the ignorant couple at least the elementary principles of Christian doctrine; if they refuse the instruction, he may not, in accordance with Canon 106G, refuse to assist at their marriage (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 345).

(b) With reference to the investigation about the free state of the parties, the Sacred Congregation of the Sacraments states that many local Ordinaries have complained that the pastors, especially in distant countries to which workingmen emigrate from Europe, have not observed the rules of Canon Law concerning the investigation whether the parties are free to marry, and have neglected to send notice of the marriages contracted to the parishes in Europe where those people were baptized. Owing to this carelessness, people have been able to deceive the pastors, and get married again while their first spouse is still living in Europe. The Sacred Congregation of the Sacraments had issued an Instruction on this matter to the Ordinaries, March 6, 1911 (*Acta Ap. Scdis,* III, 102), but lest anyone argue that the Code has revoked the said Instruction, the Instruction together with the references to the Code is again issued to the Ordinaries.

(i) The Ordinaries must remind the pastors that it is not lawful to assist at a marriage—not even under the pretext or with the intention of keeping the people from living in concubinage or from contracting a so-called civil marriage—unless they have legally established the fact that the parties are free to marry, observing in that investigation the precepts of Canons 1020 and 1097, § 1, nn. 1-3; and the pastors are to be admonished not to neglect the precept of Canon 1021 concerning the sending of notice of the marriage contracted to the parish where the parties were baptized.

(ii) The pastor who assists at the marriage (cfr. Canon 1103, §2) must send the notice to the parish of baptism without delay, and that notice must contain the full names of the parties and their parents, the age of the parties, the place and date of marriage, the full names of the witnesses, the full name of the pastor, and the seal of the parish. The parish, diocese and place where the parties were baptized must be accurately indicated in the notice. It should be sent by registered mail.

(iii) The pastor should send the letters of inquiry concerning the free state of the parties and the notice of the marriage to the place of baptism through the chancery office of his own Ordinary.

## Canon 1020 *(Continued)*

(iv) The marriage of workingmen who have conic recently from distant counties may not, as a rule, take place without consulting the local Ordinary, for they are cither *vagi* (i.e., without domicile or quasi-domicile) or, if they arc not *vagi,* arc not sufficiently known, so that in many cases there is not sufficient certainty of the absence of impediments to their marriage. In both cases the Code demands that the matter be referred to the Ordinary (cfr. Canons 1032, 1031, §1, 1023). The Sacred Congregation strictly forbids the pastors to assist at these marriages without consulting the local Ordinary, except in a case of necessity or rather in danger of death.

(v) If, in spite of all precaution, the pastor of the place of baptism finds that a party married again while the first spouse was still living, he shall at once inform the pastor who married them through the chancery office of the Ordinary.

(vi) The Ordinaries must zealously see that these precepts are faithfully observed, and proceed even with canonical penalties, if necessary, against the violators (Sacred Congregation of the Sacraments, July 4, 1921; *Acta Ap. Sedis,* XIII, 348).

(c) May a widow be admitted to marriage before the Church, without marriage before the State, if by the civil marriage the widow would lose the military pension? *Answer:* The practice of the Sacred Congregation is not to be departed from; wherefore, the loss of the pension is not a sufficient reason to permit the marriage before the Church without the civil ceremony (obligatory in Italy). If other circumstances are present, recourse is to be had in each case to the Holy See (Sacred Congregation of the Sacraments, July 2, 1917; *Archiv fiir katholisches Kirchenrecht,* CUT, 158).

(d) Regarding the oath testifying to free state, sec Canon 1023.

## Canon 1023

(a) If a party after attaining the age of puberty has lived for more than six months in distant and not easily accessible places, so that a longer time is required to get the regular attestation on the free state of the party and the celebration of marriage is urgent, the question arises whether the oath of the party and two witnesses—or, if two cannot be had, of one person—who lived with him in those places is sufficient certification of his free state. *Answer:* The matter is committed to the prudent judgment of the Ordinary, who may, in accordance with Canon 1023, § 2, prescribe other proofs, including the supplementary oath (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 345).

(b) May the Ordinary by a general order prescribe that the pastors demand of all persons to be married, spoken of in the second sentence of Canon 1023, the oath on their free state without the necessity in each individual case of having recourse to the Ordinary? *Answer:* The precept of the Code is to be observed (Sacred Congregation of the Sacraments, February 6, 1920; *Archiv fiir katholisches Kirchenrecht,* C, 28).

## Canon 1033

Marriages contracted before the Code became law, and invalidated by an impediment which has been abolished by the Code, need a dispensation, *sanatio,* etc. (see Canon 10).

## Canon 1037

To make an impediment of marriage public in the sense of Canon 1037, it suffices that the fact from which the impediment arises be public (Committee, June 25, 1932; *Acta Ap. Sedis,* XXIV, 284).

## Canon 1044

In the cases spoken of in Canons 1044-1045, is one obliged to make use of telephone or telegraph to communicate with the local Ordinary, if time does not permit one to go or write to the Ordinary? *Answer:* If telephone or telegraph are the only means by which the Ordinary can be approached, one is not obliged to use these means, and can make use of the faculties granted in the said Canons (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, GG2).

## Canon 1045

(«) Is the clause of Canon 1045—"whenever the impediment is detected when all things are ready for the marriage"—to be understood in such a sense that the impediment must have been entirely unknown previously, and becomes known only at that moment; or is it to be understood in the sense that, though it was known before, it came to the knowledge of the pastor or the Ordinary only at that time? *Answer:* It means that knowledge came to the pastor or the Ordinary at the time when everything was ready for the marriage (Committee, March 1, 1921; *Acta Ap. Sedis,* XIII, 178).

(b) The question was submitted to the Holy See whether the words of Canon 1045, § 3, "pro casibus occultis," are to be understood only of those impediments of marriage which are of their nature and actually occult, or also of those of their nature public but actually occult? *Answer:* They are to be understood also of those impediments public of their nature but actually occult (Committee, December 28, 1927; *Acta Ap. Sedis,* XX, Gl).

## Canon 1056

The fixing of a scale of maximum and minimum fees is forbidden (see Canon 1507).

## Canon 1060

A Decree of the Holy See ordains that dispensations from the marriage impediment of mixed religion or disparity of cult should not be granted unless the promises are made in such a manner that nobody can frustrate their fulfillment, not even by recourse to the civil laws to which either party is subject and which are in force in their actual place of residence or in the place where they intend to settle; otherwise the dispensation is null and void (Holy Office, January 14, 1932; *Acta Ap. Sedis,* XXIV, 25).

A bishop from Ireland, asking for the information how to proceed in applying the Decree, got the following answer: "In reference to the doubt explained in Your Excellency's letter, I wish to inform you that in the recent Decree of the Holy Office concerning the promises to be made in mixed marriages no change is imposed in the ecclesiastical practice of those countries where the civil law attributes no binding force to such antenuptial promises. The bishops in those countries, therefore, can give dispensations for mixed marriages (if they have the faculty) and execute rescripts for mixed marriages as they did before the Decree was issued, *servatis de iure servandis,* and provided the Ordinary have moral certainty in each individual case that the promises will be kept" (August 4, 1932; *Irish Ecclesiastical Record,* October, 1932, p. 409).

## Canon 1069

Proof of death of spouse by presumption was admitted by the Holy See in a case in which the husband had, with the consent of his wife, gone from Spain to South America in 1902 or 1903. For nearly two years after arriving in the new country, he repeatedly sent letters to his wife and relations. Suddenly, about December, 1905, all communications ceased, and nothing further was heard of him. As the wife desired to marry again, she asked the Holy See for the declaration of the death of her first husband. The Holy See allowed her to marry again for the following reasons: (1) the long time of absence during which no news bad come from the husband to the wife or relations; (2) the good character of the man supposed to be dead; (3) his love for the wife and his daughter; (4) careful investigations instituted concerning him; (5) the rumor of death (Sacred Congregation of the Sacraments, November 18, 1920; *Acta Ap. Sedis,* XIV, 96).

## Canon 1070

Heretics baptized outside the Catholic Church and never converted to it contract a valid marriage with a non-baptized party, even though they marry without a dispensation (Sacred Congregation of the Propaganda, February 26,1924; *Ephemerides Theol. Lovan.,* 1926, 135). For other decisions on disparate marriages see Canon 1099.

## Canon 1071

When the Church dispenses the Catholic party from the impediment of *disparités cultus,* does she also dispense from those impediments from which the infidel party is exempt, so that the latter's exemption is, in view of the oneness of the contract, communicated also to the Catholic party? Answer: No; in dispensing from the impediment of *disparitas cultus,* the Holy See does not necessarily dispense from the impediments from which the non-Catholic party is exempt (Sacred Congregation of the Council of the Holy Office, issued through the Congregation of the Propaganda, May 20, 1931; Vermeersch, *Periodica,* 1932, p. 17).

## Canons 1076-1077

(a) What is to be done if illicit and secret intercourse preceded the birth of the woman whom a man wants to marry, so that there may be doubt as to whether she is his daughter or his sister? *Answer:* Canon 1076, § 3, gives the answer, namely, that marriage may not be allowed in the case (Committee, June 2-3, 1918; *Acta Ap. Sedis, X,* 346).

(b) The Holy See has issued an Instruction to local Ordinaries to eliminate as far as possible marriage dispensations between very near blood relations, especially in the first degree touching the second in the collateral line. They should have the pastors instruct the people regarding the purpose of the Church in forbidding such marriages. In the petition to the Holy See for the dispensation, which demands more than the usual canonical reasons, the bishop should specially recommend the petition and endorse it with his own personal signature (Sacred Congregation of the Sacraments, August 1, 1931; *Acta Ap. Sedis,* XXIII, 413).

## Canon 1078

With reference to the impediment of public propriety *(publica honestas,* cfr. Canon 1078), the Holy See has declared that mere civil marriage (independent of public cohabitation, which is public concubinage) does not bring about the impediment of public propriety that arises from an invalid marriage (Committee, March 12, 1929; *Acta Ap. Sedis,* XXI, 170).

## Canon 1079

For decision as to spiritual relationship since the promulgation of the Code, see Canon 768.

## Canon 1081

With reference to insanity and other mental ailments the Roman Rota (in *Causa Buscoducensi)* states that, inasmuch as the consent is essential to marriage, not only insane persons are to be excluded from marriage, but also all those whose mind at the time of the contract is obscured to such an extent that they cannot understand the rights and duties of marriage. The facts of the individual case have to be considered, for it may happen that a person is not completely insane, so that his faculty of reasoning is not entirely destroyed. Again, it may happen that a person is of a quiet disposition, so that he does not easily betray his insanity, and, as he gradually grows weaker and weaker in his mind, it is difficult to determine whether at the time of marriage he had sufficient knowledge (January 7, 1918; Acta *Ap. Sedis,* X, 517). In another case, the Roman Rota pronounced a marriage invalid for reason of insanity, because the man was a monomaniac, and the partial insanity was considered sufficient to deprive the man of the faculty to give genuine marriage consent, because his insanity was in reference to marriage [Roman Rota (in *Causa Quebecensi)*, December 23, 1918; *Acta Ap. Sedis,* XII, 338].

## Canon 1087

With reference to force and fear which prevent free consent, the Roman Rota declared invalid a marriage of a young woman of nineteen years of age who was of a mild and timid character, and who was forced to contract marriage with a young man against her will by command and serious threats of her father (tn *Causa Parisiensi,* April 4, 1919; Acta *Ap. Sedis,* XII, 373).

## Canon 1092

With reference to marriage consent given under condition, a special Committee of Cardinals appointed by the Supreme Pontiff gave the following rules by which one may determine whether the consent is truly conditional: (1) if a woman has subordinated her consent to a condition properly so-called—for example, that she will marry the man only if he had not lived with a woman before; (2) if that condition was not revoked before the marriage was contracted, or had not ceased in any other manner; (3) if the man in his former life had actually lived with a woman, marriage is invalid because of the

condition attached to the consent and the non-verification of the condition. As to the perseverance of the condition up to the moment of the marriage contract, the Committee declares that the revocation is a fact, and facts are not presumed but must be proved. The fact that the man had lied to her, saying that he had never lived with a woman, does not destroy the condition, but her consent remains subject to that condition, even though at the time of marriage she believes the man asserting that he was not guilty [in *Causa Versaliensi,* August 2, 1918; *Acta Ap. Sedis,* X, 388. Cfr. Roman Rota (in *Causa Parisiensi),* August 11, 1921; *Acta Ap. Sedis,* XIV, 512].

## Canon 1095

*(a)* With reference to the substitutes of a pastor and their right to witness marriage contracts, the following questions were decided: (i) whether the *vicarius substitutus* spoken of in Canon 465, § 4, can validly and licitly assist at marriage after the approval of the Ordinary, if no limitation is attached to his appointment? *Answer:* Yes. (ii) Whether the same vicar can do so even before approval by the Ordinary? *Answer:* No. (iii) Whether the same vicar who substitutes for a religious pastor can do so after the approval by the Ordinary, even before the religious superior has approved of his appointment? *Answer:* Yes. (iv) Whether the vicar or priest spoken of in Canon 465, §5, can do so before the approval of the Ordinary? •Answer; Yes, unless the Ordinary to whom the designation of the priest who is to take the pastor's place was made known decrees otherwise, but until that time he has the right to witness marriages (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 527).

(&) More doubts were submitted to the Holy See concerning the right of the administrator of a parish and substitutes of a pastor to delegate other priests to witness marriages: (i) Can the administrator of a vacant parish legitimately appointed (cfr. Canons 472-473) give permission to a specified priest to assist at a specified marriage? Answer; Yes. (ii) Can the *vicarius substitutus* spoken of in Canon 465, § 4, delegate another priest after the approval by the Ordinary, if he attached no limitations to his appointment? *Answer:* Yes. (iii) Can the substitute of a religious pastor delegate after approval by the Ordinary and before approval by the religious superior? *Answer:* Yes. (iv) Can the vicar or priest substituting for the pastor, as described in Canon 465, $ 5, delegate before approval of his appointment by the Ordinary? *Answer:* Yes, until the Ordinary to whom the designation of the priest was made known rules otherwise, (v) Can the *vicarius adjutor* appointed to a pastor who is unable to attend to the duties of his office, as described in Canon 475, § 1, delegate? *Answer:* Canon

## Canon 1095 *(Continued)*

475, § 2, gives the answer, (vi) Can the assistant priest (vicarius *cooperator)* spoken of in Canon 47G delegate without the knowledge of the pastor? *Answer:* Canon 476, § 6, gives the answer (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 114).

(c) The celebration of Mass is forbidden in connection with mixed manaages (see Canon 1109).

## Canon 1096

(a) Can the assistant priest who in accordance with Canon 1096, § 1, has received from the pastor or the local Ordinary a general delegation to witness marriages, subdelegate another specified priest to assist at a specified marriage? Furthermore, can the pastor or the local Ordinary who according to Canon 1096, § 1, delegates a certain specified priest to witness a specified marriage, give him also permission to subdelegate another specified priest for assisting at that same marriage? Answer; Yes, in both cases (Committee, December 28, 1927; *Acta Ap. Sedis,* XX, 61).

(δ) In accordance with Canon 1096, § 1, is the priest sufficiently specified if the pastor declares to the superior of a monastery that he (the pastor) delegates for assistance at a marriage to be contracted in the chapel dependent on his parish on the following Sunday some religious priest whom the superior shall in the course of the following days appoint to say Mass in that chapel on Sunday? *Answer:* No, that delegation is not sufficiently specific (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 115).

## Canon 1097

Concerning the Instruction of the Sacred Congregation of the Sacraments on the manner of investigating the free state, see Canon 1020, b.

## Canon 1098

In order to contract marriage before two witnesses (without the presence of an authorized priest), the fact that the pastor (or other authorized priest) is absent does not suffice, but moral certainty is required that for one month the pastor shall not be able to be present, and that the parties cannot go to him without great inconvenience; the moral certainty must be established either from notoriety of the fact or by inquiry (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 583). Concerning the question whether moral absence of the pastor or authorized priest (e.g., prohibition of the civil law to

witness the marriage of certain parties who under the ecclesiastical law are free to marry) suflices in order that the parties may before two witnesses contract an ecclesiastically valid marriage, the Holy See has declared that physical absence only is meant in Canon 1098 (Committee, March 10, 1928; *Acta Ap. Sedis,* XX, 120). A further Declaration of the Committee of July 25, 1931 *(Acta Ap. Sedis,* XXIII, 388), practically annuls the declaration of March 10, 1928, in so far as it includes under physical absence also those cases in which the pastor, though physically present in the place, cannot ask for and receive the consent *ob grave incommodum.* It is merely a question whether one should call it physical or moral absence (cfr. *Linzer Quartalschrift,* 1931, p. 381).

## Canon 1099

(a) All children of mixed or disparate marriages contracted with proper dispensation are considered bom of non-Catholics and therefore are not bound to the Catholic form of marriage (Committee, July 20,1929; *Acta Ap. Sedis,* XXI, 573). The same was declared concerning children born of apostate Catholics (Committee, February 17, 1930; *Acta Ap. Sedis,* XXII, 195). The decision of July 20, 1929, was declarative, not extensive (Committee, July 25, 1931; *Acta Ap. Sedis,* XXIII, 388).

(b) Is the Constitution "Provida," January 18, 1906, abolished because it is a particular law opposed to the precept of Canon 1099 (cfr. Canon 6, n. 1), or is it a privilege or induit which, in accordance with Canon 4, remains intact? *Answer:* The Constitution is abolished (Committee for the Authentic Interpretation of the Code, March 30, 1918; *Archiv fiir katholisches Kirchenrecht,* IC, 61). The Code rules that the marriage of a Catholic contracted outside the Church (before a non-Catholic minister or justice of the peace) is invalid; the above-mentioned Constitution had granted that the marriage of a non-Catholic with a Catholic outside the church by Germans within Germany was valid, though illicit.

(c) Concerning Catholics of Oriental Rites and the form of marriage prescribed by the Code, Greek-Ruthenians and persons of mixed rites are bound to observe the *Ne Temere* form of marriage, that is, they must be married by the pastor of the bride, and dispensations must be given by the Ordinary of the bride (Sacred Congregation for the Oriental Church, March 1, 1929; *Acta Ap. Sedis,* XXI, 152). Maronites are not bound by the form of marriage of the *Ne Temere* Decree or the Code (Sacred Congregation of the Oriental Church, December 19, 1928; cfr. *Ecclesiastical Review,* 1929, p. 384). There is

## Canon 1099 *(Continued)*

no decision on marriages of Maronites with Catholics of the Latin Rite, but Canon 1099, § 1, n. 3, binds them to the form of the Code.

(d) Heretics baptized outside the Church contract valid marriage with a non-baptized party (see Canon 1070).

## Canon 1100

Various Decrees of the Sacred Congregation have declared it advisable to use the marriage form given in the Roman Ritual (Sacred Congregation of Rites, November 6, 1925; *Acta Ap. Sedis,* XVIII, 22).

## Canon 1102

(a) The Holy See was requested to declare what course of action the priest should take who assists at a marriage of a Catholic and non-Catholic, in which the promises are not made? *Ansieer:* He must in all things conform to the Code of Canon Law (Sacred Congregation of the Holy Office, November 26, 1919; *Archiv für katholisches Kirchenrecht,* C, 28). Canon 1061 states that the Church does not dispense with the impediments of mixed religion or disparity of cult, unless the promises are made. Canon 1102 prescribes that the priest must ask for and receive the consent. Contrary Decrees and Induits of the Holy See are abolished.

(b) Canon 1102, § 1, revokes the faculty for passive assistance which may have been granted by the Holy See to some countries (Committee, March 10, 1928; *Acta Ap. Sedis,* XX, 120).

(c) Regarding the assistance of the priest at mixed marriages, see Canon 1109.

## Canon 1103

*(a)* The pastor who assists at a marriage must send full particulars without delay to the parish or parishes where the parties were born (see Canon 1020, b, ii).

(b) As in the present state of affairs in Russia ecclesiastical documents may easily be lost to the great disadvantage of those concerned, the Pontifical Committee for Russia ordains that the notifications prescribed by Canons 470. § 2, 576, § 2, 798, 1101, and 1103, § 2, to be made to the pastor of the place of baptism, shall be made to this Pontifical Committee, if the parish is located within the domain of Russia (Sacred Congregation for the Oriental Church, July 13, 1928; Ada Ap. *Sedis,* XX, 260).

## Canon 1108

Canon 1108 grants faculty to the local Ordinaries to permit the nuptial blessing for a just reason even during Advent and Lent, provided the laws of the Sacred Liturgy are observed. The following questions were submitted to the Holy See:

(n) If the Ordinary allows the nuptial blessing on Christmas Day or Easter Sunday, is it permissible to add to the Oration of the Mass of the feast the commemoration *pro sponsis,* though these feasts (like the feasts of Epiphany, Pentecost, Trinity Sunday, Corpus Christi) exclude every other oration? *Answer:* Yes, the commemoration is to be added to the Oration of the Day under one conclusion.

(b) Is it permissible to say the Votive Mass *pro sponsis* during the closed seasons? *Answer:* If the local Ordinary permits the solemn nuptial blessing during these seasons, the Votive Mass *pro sponsis* may be said with the exception of Sundays, feasts of precept of the first and second class (actual and suppressed feasts of precept), privileged octaves of the first and second rank, privileged ferias and the vigil of Christmas.

*(c) On* privileged vigils occurring outside the closed season (namely, those of Pentecost and the Epiphany), is it permissible to say the Irotivc Mass *pro sponsis? Answer:* It is not permitted on either vigil [Sacred Congregation of Rites (in *Causa Herbipolensi),* Juno 14, 1918; *Acta Ap. Sedis,* X, 332],

## Canon 1109

In mixed marriages not only the Votive Mass *pro sponsis* is forbidden, but also any other Mass if that Mass can from the circumstances bo considered as a completion of the marriage ceremony (Committee, November 10, 1925; Acta *Ap. Sedis,* XVII, 583). The Holy Sec has declared that by Canon 1102, § 1, the faculty granted by the Holy See for some place (country or diocese) to assist passively at illicit mixed marriages has been revoked (Committee, March 10,1928; *Acta Ap. Sedis,* XX, 120).

## Canon 1113

For synopsis of Pope Pius XT's Encyclical on the Christian Education of Youth, sec Appendix XVI.

## Canon 1116

Legitimation of offspring born while the natural parents were under the impediment of either age or disparity of cult, is not effected

### Canon 1116 *(Continued)*

by subsequent marriage though the impediment has ceased at the time of the marriage (Committee, December 6, 1930; *Acta Ap. Sedis,* XXIII, 25).

### Canon 1119

In accordance with a decision given by Pius XI, dissolving a marriage contracted between a baptized person and an infidel, the only absolutely indissoluble marriage is a marriage that is sacramental (that is, contracted between two baptized parties) and consummated (In *Causa Helenensi,* cfr. *Ephemerides Theol. Lovan.,* 1926, p. 135).

### Canon 1131

Should the decree of separation of a married couple for the reasons mentioned in the first paragraph of this Canon be issued in the administrative form? *Answer:* Yes, unless the Ordinary decides otherwise *ex officio* or at the request of the parties.

In cases involving the separation of a married couple for reasons mentioned in this same paragraph, is the same form to be preserved in appeals? *Answer:* Yes. (Committee, June 25, 1932; *Acta Ap. Sedis,* XXIV, 284).

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### Canon 1133

Marriages contracted before the Code became law and rendered invalid by an impediment not abolished by the Code, were not automatically validated by the promulgation of the Code (see Canon 10).

### Canon 1141

Ordinaries who had the faculty to grant the *sanatio in radice* for mixed marriages contracted outside the Church after the promulgation of the "Ne Temere" when the non-Catholic party refused to appear before the Catholic priest, did not have authority in virtue of that faculty to grant a *sanatio* if the non-Catholic party was willing to renew the consent before the Catholic priest but absolutely refused to make the promises. The Holy See grants a *sanatio* of all marriages that remained invalid because of such unauthorized validation to this date (Holy Office, December 22, 1916; *Acta Ap. Sedis,* IX, 13).

### Canon 1148

(a) May the custom of distributing on the First Sunday in Lent the ashes blessed on Ash Wednesday be allowed by the bishop

to continue, because few people go to church on Ash Wednesday? *Answer:* It is permissible in the case, provided the ashes were blessed and imposed on those present on Ash AVednesday. On the First Sunday in Lent the ashes may be imposed at the end of the Mass or at any other time apart from the Mass (Sacred Congregation of Rites, June 30, 1922; *Acta Ap. Sedis,* XIV, 471). The Holy See was further requested to declare λυIιο IIιογ the said permission applies also to the oratories of pious unions or congregations, to rural chapels, and other places where sendees for workmen are conducted, so that all may more easily have opportunity to receive the ashes? *Answer:* Yes, the matter is committed to the prudent judgment of the Ordinary in each case, but the Decree of June 30, 1922, concerning the blessing and distribution of the ashes on Ash Wednesday must be observed (Sacred Congregation of Rites, February 1, 1924; *Acta Ap. Sedis,* XVI, 102).

(b) A priest who celebrates a Low Mass on Ash Wednesday in a semi-public oratory may before the Mass bless the ashes (according to the rite of the *Memoriale Rituum* of Pope Benedict XIII) and distribute them to those present (Sacred Congregation of Rites, November G, 1925; *Acta Ap. Sedis,* XVIII, 21).

(c) By Decree of the Sacred Congregation of Rites, March 20, 18G9, it had been permitted to a certain diocese to use the candles blessed on the Feast of the Purification for the blessing of St. Blase, and employ the shorter formula "Per intercessionem B. Blasii liberet te Deus a malo gutturis. Amen." Now, the Roman Ritual has a special form of blessing for the candles and a longer form for the blessing of the throat. May the concession to that diocese be made use of by other dioceses? *Answer:* The oration and formula of the Roman Ritual is to be employed everywhere (Sacred Congregation of Rites, February 1, 1924; *Acta Ap. Sedis,* XVI, 102).

## Canon 1149

With reference to the administration of sacramentels, is Canon 1149 to be understood of their public application to the faithful, and may catechumens be admitted to the imposition of ashes and the distribution of blessed candles and palms? *Answer:* Yes (Sacred Congregation of Rites, March 8, 1919; *Acta Ap. Sedis,* XI, 144).

# PART II

## CONCERNING SACRED PLACES AND SEASONS

### Canon 1166

The fast before the consecration of a church (cfr. Canon 1166, $2) follows the rules of the common law on fasting, that is, it does not include abstinence (Committee, July 20, 1929; *Acta Ap. Scdis,* XXI, 573.)

### Canon 1169

Church bells are not to be rung for secular purposes without the permission of the Ordinary. Ordinaries are directed to see that this order is carefully observed, instituting canonical penalties and, if necessary, reporting eases of disobedience to the Sacred Congregation (Sacred Congregation of the Council, March 20, 1931; *Acta Ap. Sedis,* XXIII, 129).

### Canon 1200

The Sacred Congregation of Rites has published a shorter formula for the reconsecration of immovable altars which have lost their consecration (September 9,1920; *Acta Ap. Sedis,* XII, 449).

### Canon 1203

Regarding the various decisions on cremation, see Canon 1240.

### Canon 1205

(«) Is the burial of the faithful in a subterranean church to be considered as burial in church in the sense of Canon 1205, §2? *Answer:* Yes, in the case of a subterranean church which is truly and properly a church destined for divine worship (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 478).

(b) In churches and in their crypts which are appointed for divine services, is it permissible to place tablets with inscriptions and the names of the faithful departed, whose bodies arc not, and cannot in accordance with Canon 1205, §2, be buried there? *Answer:* It is not allowed in accordance with former answers and the Decree of the

Sacred Congregation of Rites, n. 733, and Canon 1205, § 1 (Sacred Congregation of Rites, October 20, 1922; *Ada Ap. Sedis,* XIV, 556). The Decree cited (n. 733) forbade the placing of tablets and statues in churches, even in memory of ecclesiastics who belonged to the family that built or endowed the church.

(c) Not only is it forbidden to bury the bodies of the faithful in a church but also to transfer their bones at a later date from the place of burial to a church (Sacred Congregation of the Council, December 13, 1927; *Acta Ap. Scdis,* XX, 261).

## Canon 1211

Is there any objection to the practice of keeping electric or other lamps burning over the tombs of the faithful in Catholic cemeteries? *Answer:* There is no objection, but the light as well as the flowers placed at the graves should be put there, not only as a mark of respect for the dead and a solace for the living, but as an expression of the faith that teaches the resurrection of the bodies of the dead. Moreover, the material marks of respect may not be carried to such an extent as to injure spiritual suffrages for the dead—namely, the offering of Holy Mass, of prayers and alms (Sacred Congregation of Rites, October 30, 1922; *Acta Ap. Sedis,* XIV, 598).

## Canon 1215

(a) In accordance with Canon 1215, the bodies of the faithful are to be taken from the place where they die to the church where the funeral services are to be conducted, unless a grave reason stands in the way. The question arises whether the danger of offending the people and the clergy by the removal of the body is to be considered a grave reason in the sense of Canon 1215. *Answer:* No; contrary custom is to be stopped by the Ordinary (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 479).

(b) The Archbishop of Rio de Janeiro, in Brazil, explains that in his archdiocese the burial rites as prescribed in the Roman Ritual are not observed, inasmuch as the bodies of the faithful are not taken to church because the civil laws demand that the bodies be buried within twenty-four hours after death, and also because the cemeteries are by the law of the country at a great distance from the parish. The pastor is called to the house, where the prayers over the body are said. The question, therefore, arises what rubrics and rules are to be observed? *Answer:* (i) The Roman Ritual and Canon 1215 are to be followed as far as possible; (ii) the family of the deceased should be informed that the funeral with a burial Mass can be had though the body is

## Canon 1215 *(Continued)*

present morally only, not physically, in accordance with the rubrics and decrees; (iii) in extraordinary cases the Sacred Congregation of Rites will issue instructions (February 28, 1920; *Acta Ap. Sedis,* XII, 128).

(c) A Funeral Mass may be said on All Souls' Day, but the Mass is to be one of the three Masses of All Souls' Day and to the oration of the Mass the oration for the deceased is to be added under one conclusion (Sacred Congregation of Rites, January 10, 1919; *Acta Ap. Sedis,* XI, 143).

(d) Does the Requiem Mass, which is celebrated on the transfer of the body which had already been buried to its final resting place, enjoy the privileges of the Funeral Mass *in die obitus seu depositionis,* though funeral services had been held at the first burial of the deceased? *Answer:* No, but the Sacred Congregation extends to the proposed case the privileges contained in the new rubrics of the Missal, title III, *De Missis defunctorum,* n. G (Sacred Congregation of Rites, June 16, 1922; *Acta Ap. Sedis,* XIV, 393).

## Canon 1216

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The pastor of quasi-domicile of the deceased is also entitled to conduct funeral services and receive the offerings made for the services (Sacred Congregation of the Council, June 9, 1923; *Acta Ap. Sedis,* XVII, 508).

## Canon 1221

(a) The custom of covering the casket of a deceased Sister with a white cloth or other decoration in white may not be continued, because the rubrics and decrees of the Sacred Congregation of Rites forbid the white color in case of funerals of adults (Sacred Congregation of Rites, November 6, 1925; Acta *Ap. Sedis,* XVIII, 21).

(b) According to Canon 1221 the religious superior has the right to bury professed religious and novices. The Holy See has, however, declared that postulants and students in religious houses do not come under the provisions of Canon 1221 (Committee, July 20, 1929; *Acta Ap. Sedis,* XXI, 573).

## Canon 1226

The Cathedral Chapter of a certain diocese claimed the right to bury any of the faithful of the four parishes of the episcopal city at the petition of the heirs or the parents, and also claimed freedom from the obligation of paying to the proper pastor the canonical portion of the funeral offerings. The pastors had recourse to the Holy

See and obtained the following answer: (i) In accordance with Canon 1226, § 1, one may either in person or through another to whom one gives a legitimate mandate choose a cemetery' for one's burial, but the petition of the parents or the heirs alone does not suffice; (ii) -without prejudice to particular law, whenever a member of the faithful is not buried from his own parish church, the proper pastor of the deceased is entitled to the canonical portion of the funeral offerings with the exception of the case in which the body cannot be brought to the church of his own parish, as is stated in Canon 1236, § 1. The pastors have by law the right to the funeral of their own parishioners, and, whenever the deceased has made use of the right to select a church of his own choice for the funeral, the proper pastor has the right to the canonical portion of the funeral offerings. If another church claims contrary custom or legitimate prescription, or special privilege against the rights of the proper pastor, these must be proved (Sacred Congregation of the Council, July 9, 1921; *Acta Ap. Sedis,* XIII, 534).

## Canon 1233

At the request of several local Ordinaries that the Holy See should issue some rule or instruction concerning the admission of flags into church or their benediction, the Sacred Congregation of Rites declared that, when the insignia or flags do not belong to societies openly hostile to the Catholic religion, or to a society whose statutes are in themselves objectionable or whose insignia or flags bear emblems forbidden and condemned by their very nature, they may be admitted into church. Whenever, out of respect and deference for the Catholic Faith, members peacefully request that the insignia or flags be blessed, the blessing may be done according to the formula in the Roman Ritual (Sacred Congregation of Rites, March 26, 1924; *Acta Ap. Sedis,* XVI, 171).

## Canon 1234

An ecclesiastical province may not establish a scale of maximum and minimum fees (see Canon 1507).

Religious, even exempt, are also subject to the schedule of funeral offerings (Committee, March 6, 1927; *Acta Ap. Sedis,* XIX, 161).

## Canon 1236

The right of the proper pastor in every individual case to the canonical portion of the funeral offerings is presumed by the law (see Canon 1226).

## Canon 1237

(a) Canon 1237, §2, prescribes that, when the first solemn funeral services are not held at the time of burial but within one month from burial, the canonical portion of the funeral offerings must be paid to the proper pastor also from the solemn services held within a month. The Holy Sec was requested to declare whether the canonical portion is due to the proper pastor from the funeral services which arc held, not within a month from the burial, but within a month from the notice of death, when the deceased died in a distant country? *Answer:* Recourse is to be had to the Sacred Congregation of the Council.

Furthermore, the Holy See was asked whether the Ordinary, for the purpose of preventing the abuse of delaying the funeral services over one month with the intention of depriving the proper pastor of the canonical portion, may pass a law that the public services *cum cantu* for the deceased requested by the parents are to be considered true funeral services from which the canonical portion must be paid to the proper pastor? Answer: Recourse is to be had to the Sacred Congregation of the Council (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 576). According to declaration of the Holy See, also religious organizations are bound to observe the diocesan law on funeral taxes spoken of in Canon 1234 (Committee, March G, 1927; *Acta Ap. Sedis,* XIX, 161).

(b) A soldier had died in the military hospital, and the funeral services were held in that place. After the war the body was brought to the home town of the deceased, and the widow of the soldier who was then living in the cathedral parish of the town wanted the funeral services to be conducted at the cathedral. The pastor of the parish where the soldier had lived when he was called to service in the war objected, claiming that the services should take place at his church. The Sacred Congregation answered that the services could be conducted at the cathedral. The vote of the consultor» explains that the funeral services proper take place once only. In the present case, these services had been held at the first burial. In the transfer of the body and the services held on that occasion, Canons 1215-1218 do not apply [Sacred Congregation of the Council (in *Causa S. Scveri),* January' 12, 1924; Acta Ap. *Sedis,* XVI, 188].

(c) On days on which the rubrics forbid a Funeral Mass præsente cadavere the sounding of funeral bells at burial is forbidden the whole day, from first vespers of the preceding and the whole day of the feast. On davs on which High Mass "absente cadavere" is forbidden, the sounding of funeral bells at burial is forbidden (Sacred Congregation of Rites, October 21, 1927; *Acta Ap. Sedis,* XIX, 382).

(d) Concerning prayers in the vernacular at funerals, the Holy See in an answer to the Bishop of Rochester, N. Y., said that the funeral sermon may be given either after Mass or after the absolution and prayers, but no prayers in the vernacular are to be recited in connection with the funeral rites (Sacred Congregation of Rites, April 29, 1931; *Homiletic and Pastoral Review,* December, 1931, 301). The answer was not published in the *Acta Apostolicæ Sedis.*

## Canon 1240

(a) Ecclesiastical burial is to be denied to a person who gave orders to have his body cremated, and has persevered in that disposition until death. The prohibition must be enforced, even though cremation docs not take place because of obedience to the law of the Church (cfr. Canon 1203, § 2) forbidding one to execute the order for cremation (Committee, November 10, 1925; *Acta Ap. Sedis,* XVII, 583).

(b) The Sacred Congregation of the Holy Office instructs all local Ordinaries that they should endeavor to stop cremation of human bodies which is advocated even by some Catholics as a scientific protection against diseases. The truth is that atheists and materialists further cremation to divert the human mind from the thought of death and resurrection and to propagate materialism.

If cremation is resorted to, not by will of the deceased, but by that of others, and this is made known to the people so that scandal is avoided, the funeral rites in church can be held, not otherwise. If one had ordered the cremation of his body, it must be certain, not conjectured, that he changed his wish.

If the funeral services are forbidden because of cremation, it is also forbidden to bury the ashes in consecrated ground, and should the civil authorities force burial in consecrated ground, the clergy should protest and take no part in the burial. In order to offset the propaganda for cremation, the bishops of each ecclesiastical province should have a meeting and discuss ways and means how cremation is to be fought and pass regulations accordingly. They shall inform the Holy Sec about the steps they have taken in this matter (Holy Office, June 19, 192G; *Acta Ap. Sedis,* XVIII, 282).

## Canon 1245

The Holy See has declared that the "magnus populi concursus" in Canon 1215, §2, for reason of which the Ordinary may dispense a whole town or parish from fast and abstinence, implies a great concourse of people even in one individual parish. The bishop could therefore dispense for the whole territory of such a parish (Committee, March 12, 1929; *Acta Ap. Sedis,* XXI, 170).

## Canon 1247

Arc holydays of obligation which are kept in some country or diocese by reason of particular laws, ancient custom or special concession of the Holy See, but which are not among the days enumerated by the Code in Canon 1247 as holydays of obligation, abolished by the Code in so far as the duty of hearing Mass and abstaining from servile work is concerned? *Answer:* Those days are abolished as holydays of obligation (Committee for the Authentic Interpretation of the Code, February 17, 1918; *Acta Ap. Sedis, X,* 170). Concerning the obligation of applying the *Missa pro populo* on these suppressed feasts, see Canon 339.

## Canon 1251

(a) May one with a safe conscience follow the teaching of authors that, after the promulgation of the Code, one may on days on which fast only is prescribed eat flesh meat several times a day? *Answer:* No, that teaching cannot be followed (Committee, October 29, 1919; *Acta Ap. Sedis,* XI, 480).

(b) May flesh meat be eaten several times a day on days on which fast only is prescribed by those who are not obliged to fast for reason of age, work, or poor health? Answer; Yes, they may eat meat several times a day (Sacred Congregation of the Council, October 17, 1923; *Archiv fiir katholisches Kirchenrecht,* CHI, 163).

## Canon 1252

(a) Is Canon 1252 on the days of abstinence and fast obligatory everywhere, notwithstanding particular laws, etc.? *Answer:* Canon 1252 is obligatory (Committee for the Authentic Interpretation of the Code, January 3, 1918; *Archiv fiir katholisches Kirchenrecht,* IC, 63).

(b) Does the law of abstinence cease in France on holydays of obligation kept by the universal Church but suppressed in France by concession of the Holy See—namely, the feasts of the Circumcision, Epiphany, Immaculate Conception, and Sts. Peter and Paul—when such holydays fall on an abstinence day? Answer; No, the abstinence docs not cease (Committee, February 17, 1918; *Acta Ap. Sedis, X,* 170).

(c) In accordance with Canon 1252, § 4, does the fast cease when a holyday which has a vigil with fast falls on Monday, so that it is no longer obligatory to anticipate the fast on Saturday? *Answer:* Yes, the fast ceases, but Canon 1253 regarding the obligation of the fast by vow, by constitutions and rules of religious organizations,

remains in force. Furthermore, it was asked whether the anticipation of the vigil fast on Saturday (of feasts falling on Monday) applies to feasts during Lent, as well as to feasts during the rest of the year? *Answer:* The abolition of the anticipation of the vigil fast applies to the whole year (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 576).

(d) Is the fast only or both fast and abstinence obligatory when the Feast of St. Joseph, March 19, falls on a Friday or Saturday, and does the law of abstinence cease, if the feast falls on one of the ember days? *Answer:* The precept of Canon 1252, §4, is to be observed—i.e., neither fast nor abstinence ceases when a holyday occurs during Lent (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 576).

(e) If in some diocese or country the abstinence on Saturdays in Lent has by order of the Holy Sec been transferred to Wednesdays, strangers who are temporarily staying in that diocese or country are at liberty to keep the abstinence according to the special law of the place where they are staying, or eat meat on that day and observe the Saturdays kept in the place of their residence. If scandal might arise from such action, they must avoid giving scandal—e.g., by stating that as strangers they are not bound to observe the abstinence on Wednesday (Sacred Congregation of the Council, February 9, 1924; *Acta Ap. Sedis,* XVI, 94).

## Canon 1254

Does the word "all" in the second paragraph of this Canon apply to women as well as to men. Answer: Yes (Committee, January 13, 1918; *Il Monitore Eccles.,* 1929, p. 158).

# PART III

## CONCERNING DIVINE WORSHIP

### Canon 1258

Regarding membership in theosophist societies and other organizations, sec Canon 2316.

### Canon 1261

(a) The Holy Office has answered the Archbishop of Prague that the radio broadcasting of liturgical functions is not advisable *("Non expedire"),* although in some churches it has been done by abuse without the permission of the Holy Office (January 2G, 1927; *Ecclesiastical Review,* February, 1930, p. 184).

*(b)* Ordinaries must curb the publication of divine favors in religious magazines (see Canon 1386).

### Canon 1262

The Sacred Congregation of the Council has issued an Instruction suggesting means of combating the immodest dress of women (see Appendix XVII).

### Canon 1264

By Apostolic Constitution of December 20, 1928 *(Acta Ap. Sedis,* XXI, 33), Pope Pius XI lays down regulations concerning Gregorian Chant and sacred music. A later Instruction of the Sacred Congregation of the Council deals with the choice of sacred music for churches. See Appendix XVIII.

### Canon 1265

May the Ordinary, in view of immemorial custom, grant permission for the keeping of the Blessed Sacrament in churches charged with the care of souls, though they are not properly speaking parish churches, but subsidiary chapels? *Answer:* Yes, he may (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 115).

## Canon 1267

Is Canon 12G7 (which rules that in religious houses and pious institutes the Blessed Sacrament cannot be kept except in the church or principal oratory) to be understood in such a sense that it is forbidden to keep the Blessed Sacrament in the principal oratory in which the community convenes for religious exercises, if there is a public church attached to the institute where the Blessed Sacrament is kept for the benefit of the public. And, if it is permitted to keep the Blessed Sacrament in both places, is it permissible even if the church ordinarily remains closed to the public? Finally, may the Blessed Sacrament be kept in several oratories of the same institute, if the various classes of members have their separate oratories—e.g., one for novices, another for the professed, a third one for the students of the academy or college—or may it be kept in one oratory only in an institute? *Answer.:* The meaning of Canon 1267 is this: If the religious house or pious institute has a public church and uses that church for the ordinary daily exercises of piety, the Blessed Sacrament may be kept in that place only; otherwise, the Blessed Sacrament may be kept in the principal oratory of the religious house or pious institute, without prejudice to the right of the church, if it has any, to keep the Blessed Sacrament; the one oratory only is entitled to have the Blessed Sacrament, unless in the same building there are several distinct and separate families so that it amounts to several religious houses or institutes (Committee, June 2-3, 1918; *Acta Ap. Sedis,* X, 346).

## Canon 1269

A statue of the Sacred Heart of Jesus may, according to the prudent judgment of the Ordinary, be placed on the altar of the Blessed Sacrament, not on the tabernacle but behind it near the wall; or it may be placed in a niche or shrine in the wall near the altar of the Blessed Sacrament (Sacred Congregation of Rites, April 23, 1926; *Acta Ap. Sedis,* XVIII, 291).

## Canon 1272

For new regulations regarding the altar breads, see Canon 815 and Appendix XI.

## Canon 1274

*(a)* Are the churches in which in virtue of Canon 1274, § 1, the public exposition of the Blessed Sacrament can take place without permission of the Ordinary on the Feast of Corpus Christi and within

## Canon 1274 *(Continued)*

the octave at Mass and Vespers, those churches only which have the right to keep the Blessed Sacrament? *Answer:* Yes, but the precept *of* Canon 1171 concerning the right of the local Ordinary to regulate the divine services in all non-exempt churches must be observed (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

(δ) The Holy See has declared that by the term "public exposition" in Canon 1274, § 1, is meant also Benediction with the Blessed Sacrament which is wont to be given after public exposition in the monstrance (Committee, March 6, 1927; *Acta Ap. Sedis,* XIX, 1G1).

(c) To the question whether it is permissible, or whether the local Ordinary can tolerate the custom, to say Low Masses or sing High Masses before the Blessed Sacrament exposed but veiled, or before the ciborium placed inside the opened tabernacle or outside of it, the Sacred Congregation of Rites answered that it is not lawful, and that the former prohibitions to say Mass at the altar of exposition or give Holy Communion from it are still in force and should be enforced by the local Ordinaries (July 27, 1927; *Acta Ap. Sedis,* XIX, 289).

## Canon 1275

(a) Concerning the Masses during the Forty Hours' Adoration the Holy See ordains for the purpose of harmonizing the former rubrics with the new ones of the Roman Missal as follows: (1) the Solemn Votive Mass of the Blessed Sacrament or *pro pace* is permitted on those days on which the Solemn Votive Mass *pro re gravi et publica simul causa* may be celebrated according to the new rubrics of the Roman Missal, tit. II, n. 3. On those days on which this Solemn Votive Mass is not permitted there shall be added in the Solemn Mass of the day the oration from the Solemn Votive Mass of the Blessed Sacrament, which shall be joined to the oration of the day under one conclusion. The oration of the Blessed Sacrament is to be omitted for reason of the identity of the mystery on feasts of the Passion, Cross, Holy Redeemer, Sacred Heart and Precious Blood, according to Decree n. 3924, ad IV, July 3, 1896; (2) in the Solemn Votive Mass of the Blessed Sacrament or *pro pace* and in the Solemn Mass which takes the place of the impeded Votive Mass, only' those commemorations shall be made which are prescribed to be made in the Solemn Votive Mass *pro rc gravi et publica simul causa,* according to the new rubrics of the Missal, tit. IT, n. 3, and tit. V, nn. 3-4; (3) in the Solemn Votive Mass *pro pace,* and in private Masses which are celebrated during the three days' exposition, the collect of the Blessed Sacrament is to be added, even when more solemn feasts of the Uni-

versai Church occur, not, however, under the same conclusion with the oration of the Mass, but after the orations prescribed by the rubrics. This commemoration is to be omitted if the Mass or a commemoration occurring in the Mass is of an identical mystery of Our Lord and in Masses which are celebrated on All Souls' Day; (4) in the Solemn Votive Mass *pro pace,* even when it is celebrated outside of a Sunday, the Credo is to be added, according to the new rubrics of the Missal, tit. VII, n. 3, and the Decree n. 3922, tit. II, § 3, June 30, 1896 (Sacred Congregation of Rites, April 27, 1927; *Acta Ap. Sedis,* XIX, 192).

(ὐ) If All Souls' Day comes during the Forty Hours' Adoration, the Solemn Votive Mass of the Blessed Sacrament or *pro Pace* is not said. If All Souls' Day comes on the first day of the Forty Hours', the Exposition is to begin after the Mass of All Souls' Day; if on the last day, the reposition with the procession is to precede the Mass of All Souls.' If All Souls' Day comes on the second day of the Forty Hours', the Requiem Masses may be said in violet vestments, not however at the Altar of Exposition (Sacred Congregation of Rites, February 26, 1919; *Acta Ap. Sedis,* XI, 142).

(c) To the questions (1) whether the oration of the Blessed Sacrament, outside the Forty Hours' Adoration, is to be said in the Mass which is celebrated at the altar at which immediately after Mass the Blessed Sacrament is exposed for a public cause, provided the Mass or a commemoration in the Mass is not of an identical mystery of the Lord; (2) whether the oration, even on more solemn feasts of the Universal Church, is to be always said under a separate conclusion and after the orations prescribed by the rubrics and before the *oratio imperata* prescribed by the local Ordinary; (3) whether in all the Masses which are said or chanted while the exposition of the Blessed Sacrament for a public cause lasts, even on the more solemn feasts of the Universal Church, provided the Mass or a commemoration in the Mass is not of a mystery of the Lord identical with the Blessed Sacrament, and provided it is not a Mass said on All Souls' Day—the Sacred Congregation of Rites answered that the commemoration of the Blessed Sacrament is to be made in all these cases. If, however, the oration of the Blessed Sacrament takes the place of an impeded Votive Mass of the Blessed Sacrament conceded by Apostolic Induit or prescribed by the local Ordinary for a grave and at the same time public cause, the oration of the Blessed Sacrament is to be said under one conclusion with the first oration of the Mass (Sacred Congregation of Rites, January 11, 1928; *Acta Ap. Sedis,* XX, 90).

In the Mass on Holy Saturday the oration of the Blessed Sacrament is to be added, if immediately after the Mass the exposition of the

## Canon 1275 *(Continued)*

Blessed Sacrament takes place on the same altar for the opening of the Forty Hours' Adoration (Sacred Congregation of Rites, June 8, 1928; *Acta Ap. Sedis,* XX, 237).

## Canon 1279

The Holy See was asked whether it is permissible to represent the Holy Ghost under a human form, either with the Father and the Son or alone. The Holy Office decreed that it is not permissible (March 16, 1928; *Acta Ap. Sedis,* XX, 103).

## Canon 1281

Votive offerings may not be alienated without the *beneplacitum* of the Holy See (see Canon 1532).

## Canon 1290

Concerning the carrying of the Blessed Sacrament in processions, the following questions were submitted to the Holy See: (1) Is it permissible or proper in solemn procession with the Blessed Sacrament, especially at the conclusion of Eucharistic Congresses, to carry the Blessed Sacrament on a triumphal carriage covered with a canopy and magnificently ornamented, drawn by horses, while a priest kneels beside the monstrance to prevent it from falling? (2) Is the use of a carriage and horses permissible or proper when, in place of the Blessed Sacrament, the statue of the Blessed Virgin or the relics of Saints are carried? (3) Is the use of horse and carriage permissible, not only for reason of extraordinary solemnity, but also whenever the procession covers a long distance? (4) May an automobile be employed instead of horse and carriage? *Answer:* No, in reference to all points. The Sacred Congregation adds that, in the Eucharistic Congress held at Rome in 1922, no carriage was used for carrying the Blessed Sacrament, and that this is in harmony with the *Cæremoniale Episcoporum* and former Decrees (Sacred Congregation of Rites, October 28, 1922; *Acta Ap. Sedis,* XVI, 103).

## Canon 1294

The laws of the Sacred Liturgy do not forbid the holding of two or more processions on the same day, provided they are held at different hours, as was decided in the case between the Friars Minor and the Friars Preachers in India concerning the Corpus Christi pro-

cession on Sunday within the octave; the bishop was to fix the hours for the two processions. Wherefore, one confraternity may transfer its procession to a day on which another confraternity holds a procession, but the transfer cannot be made without the permission of the local Ordinary, in accordance with Canon 1294, § 1 [Sacred Roman Rota *(in Causa Tarentina),* February 3, 1922; *Acta Ap. Sedis,* XIV, 295].

## Canon 1296

Is it permissible to use the four chalices in Holy Mass which are described in the magazine *Benediktinische Monatsschrift* (Beuron, 1920, n. 3, 4), are there highly praised, and are styled by the names of *Poculum cceleste, Genimina vitæ, Flos de Virgine,* and *Virga Jesse? Answer:* The matter is to be submitted to the local Ordinary, who shall take care that the chalices do not diverge from the traditional forms, so that all danger of spilling the Sacred Species and all scandal to the faithful shall be avoided (Sacred Congregation of Rites, June 30, 1922; *Acta Ap. Sedis,* XIV, 437).

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# PART IV

## CONCERNING THE TEACHING AUTHORITY OF THE CHURCH

### Canon 1322

Pope Pius XI instituted a special Office in the Sacred Congregation of the Council to supervise and promote Catechetical Instruction (see Canon 1373).

### Canon 1353

Regarding the Letter on the promotion of vocations addressed by the Sacred Congregation of Seminaries and Universities to the Ordinaries of the United States, see Appendix XIX.

### Canon 1354

Concerning the seminaries and studies of seminarians, the Holy Father Pope Pius XI gave to the Cardinal Prefect of the Sacred Congregation of Seminaries and Universities directions which the Sacred Congregation is to urge in its supervision of Seminaries and Catholic Universities: (1) the priests are to be urged to comply with the precept of Canon 1353 to endeavor to promote vocations for the priesthood, by taking a special interest in boys who give indication of a vocation to the priesthood, by trying to keep them from the contagion of the world, by leading them on to piety, and by teaching them and fostering their vocation; (2) no other students shall be allowed to stay in the seminary except those who intend to study for the priesthood; (3) the Latin language must be thoroughly taught in the minor seminary, so that the seminarians may have no difficulty in the major seminary where the classes and recitations are, of course, in Latin; (4) the seminarians must as a minimum have two years of philosophy; it is to be scholastic philosophy, and the professors should follow the doctrine and principles of St. Thomas Aquinas; (5) theology should be taught from the Sacred Scriptures, from the documents of the Roman Pontiffs, the Fathers of the Church and the Councils. The historical method alone of teaching dogmas and contrary errors is not sufficient; (6) pastoral theology must teach the

seminarians to apply the theology they have learned to the care of souls. That course must consider the practical problems of the guidance of souls and the application of the unchanging principles of faith and morals to the ever-changing conditions of the people (August 1, 1922; Acta *Ap. Sedis,* XIV, 449).

## Canon 1355

In conferring non-reserved parishes the Ordinary may not impose a tax in favor of the Seminary without first having recourse to the competent Sacred Congregation (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 479).

## Canon 1357

In order that the Sacred Congregation of Seminaries and Universities may fulfill its most serious duty of superintending the seminaries with greater success, it is necessary that the Congregation be informed of the state and condition of the seminaries frequently and accurately. Wherefore, the Sacred Congregation, at the command of His Holiness, Pope Pius XI, decrees as follows:

(1) All local Ordinaries are obliged to send a report on the state of the seminary to the Sacred Congregation eveiy three years in the manner outlined in the attached formula;

(2) The Ordinary who presides over an interdiocesan or regional seminary shall make a report according to the same formula;

(3) The three years' terms are fixed, and are to be reckoned from January 1, 1924. In the first of the three years the Ordinaries of Italy, France, Spain and the adjacent isles shall make the report; in the second the other Ordinaries of Europe; in the third all the Ordinaries of America. This shall be repeated every three years;

(4) The report is to be written in Latin, and is to be subscribed by the Ordinary, who shall add the day, month and year when he signed it;

(5) In the report accurate and complete answers must be given to the questions proposed in the formula;

(6) If, during the three years following the report, some textbook in philosophy, theology, Sacred Scripture, or Canon Law is changed, such change shall be reported immediately to the Sacred Congregation;

(7) By the present Decree no change is made concerning the report on the seminary to be made to the Sacred Consistorial Congregation in the report on the status of the diocese, prescribed by Canon 340 (February 2, 1924; *Acta Ap. Sedis,* XVII, 547; formula of questions for the report on seminaries attached to the above Decree, *Acta Ap. Sedis,* XVII, 548-551).

## Canon 1363

Canon 1363, § 1, ordains that the bishop receive only legitimate children into the seminary. The Holy See has declared that children legitimized by subsequent marriage of their parents are to be considered legitimate (Committee, July 13, 1930; *Actu Ap. Sectis,* XXII, 365).

## Canon 1365

Canon 1365, § 3, speaks of lectures in the seminary on pastoral theology and of practical exercises especially in the manner of teaching catechism to children and others. The first and greatest duty of all priests, especially the pastors, is the office of instructing the Christian people, for on its fulfillment or neglect depends to a great extent the salvation or the ruin of souls. "The priests and other clerics . . . shall assist their own pastor in this most sacred task, and may be made to comply with this duty by the Ordinary under threat of penalties" (Canon 1333, § 2). A long and very careful preparation must be made for so important a duty. The seminarians must acquire the art of teaching catechism by attending classes that deal specially with the subject and by practical exercises.

Pope Pius X, in his Encyclical "Acerbo nimis" (April 15, 1905), said: "It is far easier to find an orator of eloquence and elegance of speech than to find a catechist whose teaching is in every respect praiseworthy. Wherefore, whatever natural aptitude anyone may have for thinking and speaking, let him be firmly convinced that he can never speak on Christian doctrine to the people or to the children with spiritual efficacy, unless he has prepared and qualified himself bv much reflection and studv."

The master of pastoral theology should give frequent lectures on the manner of teaching Christian doctrine, and the clerics themselves should be trained for this great task either in the seminary or in churches, as prudence will suggest.

The bishops are requested to sec that catechetics arc taught intensively in their seminaries (Sacred Congregation of Seminaries and Universities, September 8, 1926; *Acta Ap. Sedis,* XVIII, 453-455). Another Letter of the same Sacred Congregation to the bishops on the same subject (catechetics) was issued on August 28, 1929 *(Acta Ap. Scdis,* XXII, 146-148).

Gregorian Chant and sacred music are to be taught and practised in seminaries and religious houses where young men study for the priesthood (Apostolic Constitution of His Holiness Pope Pius XI, December 20, 1928; *Acta Ap. Sedis,* XXI, 33). Sec Appendix XVIII.

## Canon 1366

The Holy Father states that in the Catholic Church the study of the Sacred Scriptures has always held an important place from the earliest times of the Church to the present day. Since non-Catholics and rationalists have gone so far as to deny the authority of the Sacred Writings and to attribute errors to the inspired Word of God, it has become all the more necessary for Catholics to defend the Sacred Scriptures, and for the clergy, both secular and religious, to be well trained in the study of this important subject.

The Biblical Commission and the Biblical Institute in Rome were founded by the Holy See for the advancement of Biblical studies, and this Commission has repeatedly insisted that the professors of the Sacred Scriptures should be chosen with great care. Now, the Supreme Pontiff orders as follows:

(1) The academic degrees given after examination by the Biblical Commission or the Biblical Institute confer the same rights and have the same canonical effects as the degrees in Sacred Theology or in Canon Law given by any Papal school or Catholic Institute.

(2) The benefice to which the duty of explaining the Sacred Scriptures to the people is attached by law shall not be conferred on any one unless he holds, besides the other requisites, a licentiate or doctorate in Sacred Scripture.

(3) Nobody shall be a professor of Sacred Scripture in seminaries, unless he has taken the special course in Sacred Scripture and has legitimately obtained his academic degrees from the Biblical Commission or the Biblical Institute. We decree that the title of the baccalaureate given by the Biblical Institute to those who have followed a two years' course at that Institute suffices to entitle one to teach Scripture and also to obtain the benefice spoken of in n. 2, saving the right to give preference to those who hold a licentiate or doctorate in this science.

(4) The supreme Superiors of Religious Orders and other religious organizations shall know that we want all, or at least one, of their students who are studying theology either at Rome or elsewhere, and whom they judge best qualified for the study of Sacred Scripture, to be sent to the school of the Biblical Institute after finishing their course in theology.

(5) The bishops shall do the same, and they will please us very much if they see that scholarships arc provided by them so that one or more priests of each diocese may be maintained at Rome while they attend the Biblical Institute for the purpose of obtaining degrees from that school.

((>) What we have exhorted the bishops to do, we confirm by our

## Canon 1366 *(Continued)*

own example, donating 200,000 Italian lire from the annual interest on which two priests can be maintained while they are taking the course at the Biblical Institute, and the Sacred Congregation of Seminaries and Universities shall have the administration of this fund. The same Sacred Congregation shall have charge of the execution of the regulations of this Motu Proprio and shall at its discretion apply these laws (Motu Proprio of Pope Pius XI, April 27, 1924; *Acta Ap. Sedis,* XVI, 180).

## Canon 1373

Pope Pius XI has established a special Office in the Sacred Congregation of the Council for the furtherance of the teaching of Christian Doctrine in churches and schools, especially high schools and colleges (Motu Proprio, June 29, 1923; *Acta Ap. Sedis,* XV, 327). The bishops arc to report every three years what they have done to promote Christian Doctrine.

The Sacred Congregation of the Council requested a report from the local Ordinaries on the teaching of Christian Doctrine and submitted a questionnaire about parochial schools, colleges and public schools (June 24, 1924; Acta *Ap. Sedis,* XVI, 332).

National and Provincial Catechetical Congresses should not be held until the Sacred Congregation has been informed and the program has been submitted. It is to be desired that the same be done for Diocesan Catechetical Congresses (Sacred Congregation of the Council, April 16, 1924; *Acta Ap. Sedis,* XVI, 431).

The Encyclical of Pope Pius XI on the Christian Education of Youth contains many points on the teaching of Christian Doctrine (December 31, 1929; *Acta Ap. Sedis,* XXII, 48-86). See Appendix XVII.

Indulgences are granted to teachers and pupils of Christian Doctrine classes. If twice a month for half an hour (or at least twenty minutes) such work is done, a plenary indulgence may be gained twice a month under the usual conditions of confession, Holy Communion and visit to a church with prayers for the intention of the Supreme Pontiff; for each individual lesson, a partial indulgence of one hundred days is granted (Letters Apostolic, March 12, 1930; *Acta Ap. Sedis,* XXII, 343).

## Canon 1376

Pope Pius XI has issued an Apostolic Constitution on Catholic Universities and Faculties (see Appendix XX).

## Canon 1377

(a) Prerequisites for obtaining academic degrees in Sacred Scripture are: (1) two years' course in philosophy and a complete course in theology in a university or school approved by the Holy See and rightful acquisition of the degree of doctor in theology; (2) that those who have made the required studies in an institute which does not have the right by concession of the Holy See to confer the doctorate, shall have at least for two years studied theology in a university or school approved by the Holy See and have obtained the doctorate; (3) men of religious organizations who have made the studies according to law in their own institute, shall have obtained a title which, by concession of the Holy See to the organization, is equivalent to the doctorate in theology (Papal Committee on Biblical Affairs, February 26, 1927; *Acta Ap. Sedis,* XIX, 160).

(b) To the question whether the law of the Encyclical "Pascendi," September 8, 1907, is still in force (namely that nobody shall in future be given the degree of doctor in theology or Canon Law unless he has made the prescribed course in scholastic philosophy and that otherwise the conferring of the degree is null and void), the Sacred Congregation of Seminaries and Universities answered in the affirmative (April 29, 1927; *Acta Ap. Sedis,* XIX, 194). However, as to laymen desiring to study Canon Law and to obtain the doctor's degree, it was declared that they may be admitted though they have not taken the two years' course of philosophy (Sacred Congregation of Seminaries and Universities, April 11, 1928; *Acta Ap. Sedis,* XX, 157).

## Canon 1380

Concerning priests and clerics attending secular universities and colleges, see Canon 144, b.

## Canon 1381

All Catholic institutes of instruction and education, of whatsoever grade and for either sex, and whether entrusted to Religious Orders or Congregations or dependent on episcopal authority, are henceforth subject to the Sacred Congregation of Seminaries and Universities (Sacred Congregation of Religious, April 24, 1932; *Acta Ap. Sedis,* XXIV, 149).

## Canon 1386

With ever increasing frequency there arc published especially at the more renowned sanctuaries of the world religious magazines for the purpose of relating the things which happened at these shrines

Canon 1386 *{Continued')*

and to arouse the devotion of the people towards the Saints under whose patronage the magazines are published. Among the things related in the magazines there is, as a rule, an account of the favors and heavenly blessings which have been obtained by the faithful through invocation of these Saints, and frequently an account is given of the offerings which have been pledged by the people for the favors asked and obtained.

Though the purposes for which the magazines arc published and the offerings collected be praiseworthy in themselves (namely, increase of devotion towards the Saints, building and beautifying the sacred edifices, founding of works of charity), nevertheless the manner in which not infrequently divine favors are said to have been received (namely, absurd stories without a sign of authenticity) cannot be approved, especially when one considers that in the stories the reception of the divine favor is often so intimately connected with the offerings of money that the one seems to depend on the other. That manner of acting may very easily appear as filthy greed, and may at least give occasion for adverse criticism especially to those λνΐιο are prejudiced against the Catholic religion.

In order to prevent these improprieties, the Sacred Congregation of the Council after having consulted with the Sacred Congregation of Religious published with the approval of the Holy Father the following regulations for local Ordinaries and major religious superiors:

(1) The precepts of Canons 1261 and 1386 should be diligently observed to curb abuses.

(2) These publications should be submitted before publication to ecclesiastical censorship according to the precept of Canon 1386. The Ordinaries and superiors should not give permission to publish the magazines, and this is a matter of conscience, unless the official censor, according to the precept of the Encyclical "Pascendi" of Pope Pius X, September 8, 1907, has given a favorable opinion, and that is to be given in writing for each individual issue. The censor shall see that the stories which go under the rubric of favors received possess such signs of credibility that, all things duly considered, they can merit faith and that moreover between the favor obtained and the alms offered there is not even the least suspicion of a connection.

(3) If the narration of favors does not agree with the foregoing rules, they shall not permit them to be published except under a generic indication of the favor received without any detail of the facts.

If these things are faithfully observed, the religious magazines will fulfill the purpose for which they are published, and there will be no reason to accuse them of anything that is contrary to Christian piety (Sacred Congregation of the Council, June 7, 1932; *Acta Ap. Sedis,* XXIV, 240).

## Canon 1391

Is the particle "et" in Canon 1391—"aut nisi edantur sub vigilantia episcoporum *et* cum adnotationibus, etc."—to be interpreted as copulative or disjunctive? *Answer:* It is to be interpreted as copulative (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 116).

## Canon 1396

The Holy See has declared that the condemnation of books and other publications by the Sacred Congregation of the Holy Office is to be observed also by the Churches of Oriental Rites because such condemnations are not so much disciplinary measures as rather matters pertaining to the doctrine of the Church (Sacred Congregation for the Oriental Church, May 26, 1928; *Acta Ap. Sedis,* XX, 195).

## Canon 1397

The Sacred Congregation of the Holy Office states that the present age is infested with literature of a sensual and lustful character that tends to undermine the Christian teaching on morality and does great harm to Christian souls. Of this character are many of the modern romances, novels, dramas and comedies. The books of modern fiction reproduced by the hundreds of thousands and sold at a small price are frequently written in a fascinating style, which in its vivid description of sins of impurity arouses the impure lust of the reader and poisons his mind. Still worse are those novels which under the guise of piety extol vice and lead to a sensual mysticism. Other books pretend to be a study of psychology and apparently a condemnation of impure pleasures, but the books, even if there is some philosophical or medical value to them, are to many people an incentive to sin.

There is such a multitude of improper literature on the market that it is impossible to have all publications examined by the Holy See. Books, magazines, etc., which tend to undermine Christian morals, are forbidden by the general laws of the Code on forbidden reading, just as though they had been placed on the Index of Forbidden Books. The bishop in his diocese should point out to his people the books which are forbidden under the laws of the Code, and he has authority (cfr. Canon

## Canon 1397 *(Continued)*

1395, § 1) to forbid in his diocese the reading of books, periodicals, etc., which he judges dangerous to his people. The Holy See orders that the local Ordinaries in the quinquennial report on the state and condition of their respective dioceses relate what they have done against impure literature (Holy Office, May 3, 1927; *Acta Ap. Sedis,* XIX, 186).

## Canon 1406

(a) Superiors in clerical societies without vows, spoken of in Canons 673-681, are obliged to make the profession of faith prescribed by Canon 1406, § 1, n. 9 (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

(b) Are the precepts of the Holy See with regard to Modernism, contained in the Constitution "Pascendi Dominici Gregis" and the Motu Proprio "Sacrorum Antistitum," abolished by the Code, since no mention is made of them in the Code? *Answer:* They are not abolished, but remain in force until the Holy See shall declare otherwise, but they could not be incorporated in the Code because of their transitory character (Sacred Congregation of the Holy Office, March 22, 1918; *Acta Ap. Sedis, X,* 136).

# PART V

## CONCERNING BENEFICES AND OTHER NON-COLLEGIATE INSTITUTES OF THE CHURCH

### Canon 1427

The local Ordinaries can, in virtue of Canon 1427, § 1, without permission from the Holy See, divide parishes or disrupt the territory of parishes, though accidentally by the division of the territory the *decimæ* (certain offerings of the faithful) are divided [Sacred Congregation of the Council· *(in Causa Utinensi),* January 14, 1922; *Acta Ap. Sedis,* XIV, 229 ).

### Canon 1429

The Ordinary may impose on a parish a pension in favor of the former pastor, provided the pension does not exceed one-third of the income of the parish (Sacred Congregation of the Council, November 11,1922; *Acta Ap. Sedis,* XV, 454).

Can the local Ordinary admit the resignation of a parish with the reservation of a pension for the life of the one pensioned, which pension is to be paid by the parish to the resigning pastor? *Answer:* Yes, provided the precept of Canon 1429, § 2, concerning the amount of the pension is observed (Committee, May 20, 1923; *Acta Ap. Sedis,* XVI, 116).

Such a pension does not come under the conditions referred to in Canon I486 (see Canon 1486).

### Canon 1432

In accordance with Canon 1432, § 3, does the conferring of a benefice devolve on the Holy See if the Ordinary docs not, within six months from the time he obtains certain knowledge of the vacancy of a benefice, confer the benefice, provided the delay is not caused by his neglect but by absolute shortage of men for the position? *Answer:* No, he does not lose the right to fill the benefice (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 577).

## Canon 1435

According to paragraph 1, η. 1, the benefices (parishes) of Domestic Prelates (Monsignori) when they become vacant through death, promotion, resignation, transfer, are reserved to the Holy See. The appointment of a pastor, therefore, belongs to the Holy See. The announcement of the vacancy to the clergy of the diocese and the formalities which the applicants for the parish must go through should be attended to before the bishop writes to the Cardinal Datary of the Holy Roman Church for the appointment of a pastor. In his letter the bishop should give the names of all priests who desire the pastorship together with statements concerning their age, studies, life and character, positions which they have satisfactorily held and their qualification for the particular parish they wish to be appointed to. The bishop should point out at least three as the more worthy priests for the position. If by particular law a *concursus* is prescribed, the bishop must, besides the above statements, add the vote of the examiners on the candidates (Apostolic Datary, November 11, 1930; *Acta Ap. Scdis,* XXII, 525).

## Canon 1441

May the Ordinary in the conferring of non-reserved parishes impose for once only a moderate tax in favor of the seminary, though the parish of which there is question is subject to the seminary tax (cfr. Canons 1355, 1356, 1441)? *Answer:* He shall in each instance have recourse to the competent Sacred Congregation (Committee, October 16,1919; *Acta Ap. Sedis,* XI, 479).

## Canon 1450

Memorial tablets containing the names of patrons are not allowed in churches or crypts destined for divine worship (see Canon 1178).

## Canon 1451

What is the force of the verb "curent" in Canon 1451 §1? *Answer:* It means that the local Ordinaries should try to persuade the patrons that, in place of the right of patronage, or at least in place of the right to present the holder of a benefice, they should accept spiritual suffrages (even perpetual ones) for themselves and their families, and that therefore the patrons, especially ecclesiastics, act in a most praiseworthy manner if they act on this suggestion of the bishop (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 663).

## Canon 1452

The Patriarch of Venice (Italy) explained to the Holy See that in the Venetian province there were a number of parishes in which by ancient custom the people of the parish choose the pastor *(electio seu præsentatio popularis),* but that all candidates were subject to the *examinatio* or *concursus.* After the promulgation of the Code, which in Canon 1452 admits the popular election or presentation only under condition that the people elect one of three candidates proposed by the bishop, some priests refused to make the *concursus* before their nomination by the bishop. The Patriarch asks whether the ancient practice of popular election or presentation may be permitted to continue. Answer.· Yes. The answer of the Sacred Congregation is based on Canon 5 which rules that centenary and immemorial customs contrary to the Code and not expressly rejected by it may be suffered to continue, if the local Ordinaries do not believe it wise in consideration of the circumstances to stop those customs [Sacred Congregation of the Council *(in causa Veronensi et aliarum),* February 14, 1920; Acta Ap. *Sedis,* XII, 163].

## Canon 1453

In so far as the right of patronage extends to the nomination of

canons, see Canon 404.

## Canon 1462

In accordance with Canon 1462, must parishes and other benefices subject to laical right of patronage always be conferred by *concursus,* so that the patron, though a layman, cannot present a cleric except one who has been approved in the *concursus? Answer:* Yes, if the parishes and other benefices of laical patronage are by particular law (e.g., by the charter of the foundation of the benefice or by custom) subject to the *concursus,* but not otherwise (Committee. November 12. 1922: *Acta* An. *Sedis.* XIV. 6631.

## Canon 1473

The question was submitted to the Holy See whether mines and other natural resources discovered on the property of a benefice (e.g., a parish) belong entirely to the holder of the benefice, or whether he merely can claim the profits, or part of the profits, whereas the ownership of the mines, etc., belongs to the benefice as a legal ecclesiastical person.

In the discussion of the case the consultor points out that under the Roman Civil Law the person who had the usufruct of the land

## Canon 1473 *(Continued)*

became the owner of the mine that he opened on that property. Canonists did not admit the ownership by the holder of the property, because, they argued, such holder was not an absolute "usufructuarius" in the meaning of the Roman Law; for while he does become the owner of the income from the lands, houses, etc., of a benefice, he becomes owner with a restriction, namely, that what is over and above the amount he needs for respectable maintenance he is bound by Canon Law to give to religious or charitable purposes or to the poor.

The consultor quotes several cases in which the Holy See had declared that the income from a mine, stone quarry, etc., on the land of an ecclesiastical benefice belonged to the benefice as a legal personage, not to the holder of the benefice, and that the holder was entitled only to a portion of the profits for expenses he incurred in the operation of the mine, etc., and for the loss of the natural fruits of that piece of land where the mine, quarry, etc., was located. The present case is answered in the same manner (Sacred Congregation of the Council, December 17, 1931; *Acta Ap. Sedis,* XXIV, 147).

## Canon 1486

A certain pastor, at the invitation of his Ordinary, had resigned his parish under condition of a life pension. Afterwards, the pastor had recourse to the Apostolic See, requesting that the resignation be declared null and void, because contrary to Canons 1486 and 1429. The question was proposed whether there is certainty of the nullity of the resignation. Answer; No. The reasons given are that, in accordance with Canon 1429, § 2, the Ordinary can impose on the parishes a pension in favor of the former pastor, provided the pension does not exceed one-third of the income of the parish. Canon 1486 has reference to a condition properly so called, not to a proposition made by the bishop of which there is question in the case (Sacred Congregation of the Council, November 11, 1922; *Acta Ap. Sedis,* XV, 454).

For other decisions on life pensions of resigned pastor, see Canon 1429.

# PART VI

## CONCERNING THE TEMPORAL GOODS OF THE CHURCH

### Canon 1503

Regarding the collecting of alms and Mass stipends by Oriental clerics, sec Canon 98, c.

### Canon 1504

(«) During vacancy of the episcopal see no *cathedraticum* is due from the churches of the diocese, and the right of the new bishop to the *cathedraticum* dates from the day he takes possession of the episcopal see (S. Congregation of the Council, August 20, 1917; *Acta Ap. Sedis,* IX, 497).

(b) The bishops of a certain ecclesiastical province in France, in accordance with Canons 1504 and 1507, submitted to the Holy See the schedule of taxes. They stated that the taxes or fees of the chancery office did not suffice to cover the expenditures of the chancery office, and that the bishops were obliged cither to defray the expenditures from their own income or to find other means of covering the expenditures. Wherefore, the tax called *cathedraticum* shall be very useful for the purpose. The basis for this tax was to be 20 centimes for each parishioner, so that a pastor who had 500 souls in the parish paid only 100 francs for the *cathedraticum,* and a parish which had 1000 souls paid 200 francs. The money is not to be collected from each individual parishioner, but is to be paid from the income of the churches and confraternities. The Holy See answered that, as the matter is explained, it was not expedient. In the "animadversiones" of the answer, it is explained that the proposed scheme did not harmonize with the juridical notion of the *cathedraticum* as described in Canon 1504, because the *cathedraticum:* (1) must be paid by all churches and benefices and laical confraternities; (2) must be a fixed sum equal for all; (3) is paid merely as a mark of subjection to the bishop (Sacred Congregation of the Council, March 13, 1920; *Acta Ap. Sedis,* XII, 444).

## Canon 1507

The bishops of a certain ecclesiastical province submitted to the Holy See for the necessary recognition the schedule of taxes to be charged in the entire province. In the schedule there was under each head a highest and a lowest fee, so that the individual Ordinaries might, according to the circumstances of their diocese, demand a fee which was between the two extremes. The Holy See answered that the definite approval of the proposed schedule is to be delayed. The bishops of the province should at a future meeting reconsider the matter, drop the double tax, and fix one tax only, taking into account the Bull of Pope Innocent, October 8, 1678, the precepts of the Code in Canons 1507, § 1, 1234, 1056, and the Decree of this Sacred Congregation issued June 10, 1896; in the imposition of taxes or fees discretion is to be used (Sacred Congregation of the Council, December 11, 1920; *Acta Ap. Sedis,* XIII, 350).

## Canon 1511

The time required for prescription against immovable ecclesiastical property by the former Canon law was forty years. In Canon 1511, the Code appoints a shorter period of thirty years. What rule must be applied to prescriptions which have already been started under the former law? The rule is that the former law applies to prescriptions which were started under the former law, except only in cases where the différence of time stated by the former and the new law is so great that the period of time ordained by the new law has elapsed before the period of the former law has been completed (e.g., if the old law required one hundred years for prescription, the new law only thirty; now, if at the promulgation of the new law one had already fifty years of prescription under the old law, he does not have to wait fifty more years but only the thirty years of the new law, counting the years from the time that the new law came into force). This rule was applied by the Sacred Roman Rota in a recent case (June 21,1924; *Acta Ap. Sedis,* XVI, 473).

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## Canon 1513

If last wills made in favor of a religious or charitable cause are invalid according to civil law, Canon 1513, § 2, prescribes that the Ordinary' warn the heirs to turn over to the "causa pia" whatever was willed, the injunction ot the said Canon requiring the Ordinary to warn the heirs is preceptive (Committee, February 17, 1930· *Acta Ap Sedis,* XXII, 196).

## Canon 1517

On account of diminished revenue, may the Ordinary in virtue of Canons 1517 and 1551 reduce the burden of Masses, if this is expressly provided for in the deed of foundation? Answer: Yes (Committee July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

## Canon 1532

(a) May votive offerings be alienated without the *beneplacitum* of the Holy See? *Answer: No.* The reasons given for the answer are that (i) there is an intimate connection between those offerings and the objects of cult, devotion or piety (cfr. Canon 1281, § 1); (ii) the will of the donors who desire that the offerings be faithfully preserved; (iii) the perpetual custom and practice of the Church not to dispose of the votive offerings (Sacred Congregation of the Council, July 12, 1919; *Acta Ap. Sedis,* XI, 41G).

*(b)* A certain bishop proposed the following questions: (i) for the alienation of so-called precious objects is it always necessary to obtain the *beneplacitum* of the Holy See, or may the Ordinary within the limits of a certain sum allow the alienation? *Answer:* The matter shall be referred to the Committee for the Authentic Interpretation of the Code, (ii) Is the *beneplacitum* of the Holy See required for the alienation of any votive offerings, or may the Ordinary dispose of them up to a certain amount? *Answer:* For the alienation of all votive offerings the *beneplacitum* of the Apostolic See is required (there seems to be question of jewels, objects wrought in gold and silver and other gifts of that kind offered at miraculous pictures and other sacred shrines), (iii) Is the *beneplacitum* of the Holy See required, even when the donor of his own accord consents to the alienation? *Answer:* Yes, even in that case the *beneplacitum* is required. (iv) Does the more fact that an offering is made at an altar or a sacred image of itself imply that the offering was made in fulfillment of a vow, or must it be positively known that the offering was made in fulfillment of a vow? *Answer:* The offering is presumed to be a votive offering, unless the contrary will of the offerer is otherwise proved, (v) Has the Ordinary the right, when the administrative board and the Cathedral Chapter disagree, to supply the consent of one or the other in the matter of alienation, ns well as in any other contract of the same nature? Answer; No, he has not the right (Sacred Congregation of the Council, January 14, 1922; *Acta Ap. Sedis, XIV,* 160).

(c) Is the price spoken of in Canon 1532, § 3, the same as the

## Canon 1532 *(Continued)*

valuation of the object by conscientious experts made in accordance with Canon 1530, §1, no. 1, or docs Canon 1532, § 3, refer to a higher price which was offered in public auction (cfr. Canon 1531, §2)? *Answer:* The valuation of the experts only is to be considered. Therefore, if the experts have estimated the value of a thing to be sold below thirty thousand francs and in the auction a higher price is obtained, there is no need of obtaining the *beneplacitum* of the Holy See (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 577).

(d) Has the local Ordinary the right, in virtue of Canon 1532, to validate alienations of ecclesiastical goods made without the required permission, if the value of those goods docs not exceed thirty thousand francs? *Answer: No.* In the "animadversiones" to the answer it is explained that the invalid act is no act, and has no juridical existence; wherefore it cannot be rectified (literally "healed," *sanari)* by authorities inferior to the Roman Pontiff (Sacred Congregation of the Council, May 17, 1919; *Acta Ap. Sedis,* XI, 382).

Alienation of ecclesiastical goods valued above 30,000 francs needs the permission of the Holy See even if various objects, each of lesser value, are disposed of *unico actu* and the aggregate sum exceeds 30,000 francs (Committee, July 20, 1929; *Acta Ap. Sedis,* XXI, 574).

(e) The faculty to alienate goods belonging to diocesan seminaries pertains to the Sacred Congregation for Seminaries and Universities (see Canon 256).

## Canon 1536

Canon 1536, § 1, rules: "Unless the contrary is proved, it must be presumed that those things which are donated to rectors of churches, even of churches of religious, are donated to the church." As this rule is not a new law, but has been taken from the Constitution of Pope Leo XIII, "Romanos Pontifices," May 8, 1881, and is in harmony with the most universally accepted interpretation of the former common law, that rule of Canon 1536, § 1, is to be applied also in the interpretation of donations made before the promulgation of the Code [Apostolic Signatura (in *Causa de Manila),* April 6, 1920; *Acta Ap. Sedis,* XII, 252].

## Canon 1544

Laical chaplaincies which have not been accepted by the bishop may be changed or suppressed by the founders while they are living and also by last will [Roman Rota, February 2G, 1921 (in *Causa Bcrgomensi) ; Acta Ap. Sedis,* XIII, 505].

## Canon 1551

In accordance with Canons 1517 and 1551, can the Ordinary for reason of the diminution of the income reduce foundation Masses, if such an emergency is explicitly provided for in the charter of the foundation? *Answer:* Yes, he can (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

# BOOK IV

## CONCERNING CANONICAL TRIALS

## PART I

### CONCERNING ORDINARY TRIALS

#### Canon 1553

The Bishop of Paderborn explained to the Holy See that in his diocese disputes between Catholics concerning the right to pews in church are usually taken to the civil courts. He inquires whether this custom can be approved or at least tolerated, especially when the litigants explicitly appeal to the civil courts from his decision given by way of administration. *Answer:* The custom cannot be tolerated, all the more so when there is question of suing in the civil court against the order of the Ordinary. Care should be taken to abolish the custom spoken of in the case. Cfr. Canon 1553, § 1, η. 1 [Sacred Congregation of the Council (in *Causa Paderbornensi)*, December 11, 1920; *Acta Ap. Sedis,* XIII, 262].

#### Canon 1554

The ecclesiastical judge cannot amend or modify sentences rendered by the civil authority except in matters which are contrary to ecclesiastical law or to evident justice (Sacred Rota, February 28, 1919; *Acta Ap. Sedis,* XII, 85).

#### Canon 1565

In accordance with Canon 1565, § 1, can a party be sued before the Ordinary of the place where the contract was made or is to be executed, though that party has left the place? *Answer:* No, he cannot be sued in that place after he has left it, but the parties can make a special agreement in the contract (cfr. Canon 1565, § 2) to be sued on the contract in a certain place, though they are away from that place (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

## Canon 1573

The Archbishop of Breslau requested the Holy See to declare: (1) whether the custom in his diocese existing for one hundred and seventy years of admitting laymen experienced in law to a decisive vote in matrimonial and civil cases, but excluding them from criminal cases, can be called legitimate and may be tolerated; (2) whether in future these laymen can be admitted in ecclesiastical trials, excepting criminal trials, as auditors to draw up the cases or as assessors with a consultive vote in those trials which have some connection with the civil laws. *Answer:* No, in both points. In the "animadversiones" it is explained that laymen are to be entirely excluded from the office of judge in ecclesiastical trials, and the contrary custom is condemned as subversive to ecclesiastical discipline and not to be tolerated. The auditors and assessors must be taken from the synodal judges, who, in accordance with Canons 1575 and 1581, must be priests (Sacred Congregation of the Council, December 14, 1918; *Acta Ap. Sedis,* XI, 128).

The *officialis* or judge of the diocesan Curia, who is appointed by the Ordinary in accordance with Canon 1573, 1-2, with ordinary power to judge and without any reservation of cases, may set up a collegiate tribunal by calling in rotation the synodal judges nominated according to Canon 1574, unless the bishop ordains otherwise in individual cases (Committee, July 28, 1932; *Acta Ap. Sedis,* XXIV, 314).

## Canon 1581

Laymen cannot be chosen as auditors (see Canon 1573).

## Canon 1601

(a) The Sacred Roman Rota is not competent to try cases which, though they have a residential bishop as a party to tho case, originate from an administrative decree or disciplinary measure of the bishop. As, in virtue of Canon 1G01, the Roman Rota is entirely incompetent to try such cases, which are reserved exclusively to the Sacred Con gregations, it cannot judge on the merits of those cases, nor consider them incidentally, and as it were accidentally. Canon 17 of the laws proper to the Sacred Roman Rota states that the lack of authority of the Rota in these cases is absolute, so that this tribunal cannot even incidentally consider those cases, and, if it does render a decision concerning them, its sentence is null and void (Sacred Roman Rota, April 30, 1923; *Acta Ap. Sedis,* XV, 296).

(b) In accordance with Canons 1552-1601, can a judicial trial be

## Canon 1601 *(Continued)*

instituted against the decrees, acts, or orders of Ordinaries, which have reference to the government or administration of his diocese_ e.g., conferring of benefices, offices, etc., or the refusal to confer some benefice or office, etc.? And, if no trial can be instituted for the purpose of (e.g.) forcing the bishop to confer a benefice, office, etc., can a canonical trial be instituted at the tribunal of the Sacred Roman Rota, in accordance with Canons 1557, § 2, and 1559, § 2, for the purpose of obtaining damages suffered through the decree, order, or refusal of the bishop? *Answer:* Neither trial can be instituted. The matter pertains exclusively to the Sacred Congregations to pass judgment on the actions of the Ordinary in disciplinary and administrative matters, and also the judgment as to injury inflicted unjustly by the Ordinary through his measures or acts (Committee, May 22, 1923; *Acta Ap. Sedis,* XVI, 251).

## Canon 1602

The *congressus* of the Signatura Apostolica has a twofold jurisdiction—one administrative and the other judicial. As administrative organ of the Holy See, it receives petitions for Papal commissions and prayers for other rescripts of that kind; as a judicial tribunal it has judicial power (cfr. *Chirographum Bened.* AT, June 28, 1915; *Acta Ap. Sedis,* VII, 320), and can examine the judicial decrees of the Sacred Roman Rota, hear the parties (if it deems it necessary), or, if the case is sufficiently complete, examine the acts and confirm or reject or correct the decision of the Sacred Rota. Matters of greater importance must be submitted to the full tribunal of the Signatura Apostolica [Signatura Apostolica (in *Causa Romana),* November 25, 1922; *Acta Ap. Sedis,* XV, 180].

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## Canon 1608

The custom of referring to a lay tribunal parties who have freely had recourse to the Ordinary, cannot be tolerated, especially if the case is concerned with a violation of a precept of the Ordinary (Sacred Congregation of the Council, December 11, 1920; *Acta Ap. Sedis,* XIII, 2G2).

## Canon 1629

The exception of "res indicata iam in foro sæculari" (provided the matter was competent and the persons were subject to that forum) impedes the case from being tried before an ecclesiastical tribunal of

the first instance (Sacred Rota, March 18, 1922; *Acta Ap. Sedis,* XIV, 652).

## Canon 1646

Concerning non-Catholics as plaintiffs, see Canon 1971.

## Canon 1658

Must clerics and laymen approved as attorneys for the defence in ecclesiastical cases tried at the Roman Curia, even the attorneys of the Consistorial Congregation, obtain approval from the local Ordinary, if they wish to practise law in the diocesan Curias? *Answer:* Yes, they cannot practise without the approval of the Ordinary [Signatura Apostolica (in *Causa Romana),* December 15, 1923; *Acta Ap. Sedis,* XVI, 105].

## Canon 1683

Canon 1G83 rules that an inferior judge cannot pass judgment on the confirmation given by the Roman Pontiff to an act or instrument, unless he has first obtained a mandate from the Apostolic See. As this Canon does not constitute new' law but merely repeats the former law, it must be interpreted in accordance with the accepted interpretation of approved authors who wrote on the former law (cfr. Canon 6, n. 2). The confirmation spoken of in Canon 1683 means a confirmation *in forma specifica,* not *in forma communi,* and that specific confirmation must have been issued by the Supreme Pontiff himself, not by the Sacred Congregations, unless the confirmation was not given by one of the Sacred Congregations by their ordinary power, but by authority specially delegated to it by the Supreme Pontiff. Usually, rescripts and letters of the Holy See are withdrawn from the judicial recognition of the judges in those cases only in which the letters are issued under clauses which invalidate the action concerning those letters [Sacred Roman Rota *(in Causa Tranensi),* January 30, 1923; *Acta Ap. Sedis,* XV, 124].

## Canon 1761

Each party to a lawsuit is to present to the judge the names of witnesses and the points on which they are to be questioned (cfr. Canon 1761, § 1). The judge may inform the opposing party of the points on which the witnesses are to be questioned in order that the opponent may prepare and exhibit to the judge an interrogatory, provided there is no danger of subornation (Committee, March 12, 1929; *Acta Ap. Sedis,* XXI, 170).

## Canon 1786

Regarding the distinction between grave and most grave reasons for introducing new witnesses in marriage cases, sec Canon 1987.

## Canon 1874

In accordance with Canons 1874, § 5, and 1894, n. 3, is a sentence null and void which is issued by a collegiate tribunal and subscribed by the presiding judge and a notary only? *Answer:* Yes, because all the judges must subscribe to the sentence (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

## Canon 1881

The days within which an appeal must be made are to be computed from the day on which legal notice of the sentence has been given to the parties concerned. In virtue of the Instruction of the Sacred Congregation of Bishops and Regulars, June 11, 1880, it was required that the intimation of the sentence be made by a duly qualified person. According to the law in force at present, the notification of the sentence to the parties is to be made in the manner prescribed by Canon 1877. An irrevocable decision in the civil courts holds good also in the ecclesiastical court [Sacred Roman Rota *(in Causa Vincentinw Societatis),* March 18, 1922; *Acta Ap. Sedis,* XIV, 652].

## Canon 1894

A sentence issued by a collegiate tribunal and signed only by the presiding judge and the notary is null and void (see Canon 1874).

## Canon 1903

(«) The Baroness de Laeffert requested the Signatura Apostolica to declare null and void the sentence of the Roman Rota in her marriage case, or at least to grant her reinstatement into the former right. The Signatura Apostolica refused both petitions, the first because of the lack of reasons recognized in law for the declaration of nullity of the sentence, and the other because there was question of a marriage case, which never becomes irrevocably adjudged. Since the reinstatement in the former right is an extraordinary remedy specially against sentences which have become irrevocably adjudged, the remedy is not applicable in marriage cases [Signatura Apostolica *(in Causa Paderbornensi),* May 31, 1919; Act« *Ap. Sedis,* XI, 295].

*(b)* The rule which ordains that matrimonial causes never become *res iudicatcB,* does not apply when the bond of marriage has been dissolved by the death of either of the parties (see Canon 1989).

## Canon 1960

Cases of separation of married people, spoken of in Canon 1131, § 1, are to be decided without canonical trial by administrative procedure, unless the Ordinary *ex officio* or at request of the parties prescribes otherwise. The same cases carried to the second instance are to be decided in the manner in which they were conducted in the first instance (Committee, June 25, 1932; *Acta Ap. Sedis,* XXIV, 284).

## Canons 1962 sqq.

The procedure to be followed in cases of *matrimonium ratum et non consummation* will be found in Appendix XXI.

## Canon 1962

The following question was submitted whether in every marriage case between a Catholic and a non-Catholic, baptized or unbaptized, which is in any way canned before the Holy See, the Holy Office exclusively is competent to decide the case. The answer was that the Holy Office alone is competent, according to Canon 247, § 3, but the marriage cases of supreme heads of a country or state, of their children and of those who have the proximate right of succession are reserved to the Supreme Pontiff himself, according to Canon 157, § 1, n. 1 (Holy Office, January 27, 1928; *Acta Ap. Sedis,* XX, 75).

## Canon 1964

(a) Can a wife maliciously deserted by her husband, in accordance with Canon 1964, sue him in a matrimonial case before the local Ordinary of the place where the wife has a quasi-domicile of her own, distinct from that of her husband, or can she sue him only in the diocese where the husband has a domicile or quasi-domicile? Hnsw^r; She can sue him only where he has a domicile or quasi-domicile.

Can a Catholic woman who has not been legitimately (i.e., by authority of the Ordinary) separated from her non-Catholic husband, and who has a quasi-domicile of her own, sue her husband in the diocese of her quasi-domicile only, or also in the diocese where her husband has a domicile? *Answer:* Since the wife has a quasi-domicile of her own, and also participates in the domicile of her husband, she can sue him either in the diocese of her quasi-domicile or in the diocese of the domicile of her husband, which is also her own domicile in accordance with Canon 1964 (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 529).

## Canon 1964 *(Continued)*

(b) The Holy See has issued an Instruction on the competency of the judge by reason of quasi-domicile of the plaintiff or petitioner. The judge is to inquire whether the quasi-domicile has been acquired canonically ; furthermore, for what reason the parties come to the court of quasi-domicile in preference to that of domicile or of the diocese where the marriage was contracted, and whether perhaps the parties can obtain proofs and documents more easily in the place of quasi-domicile than in that of domicile or marriage. Finally, the judge shall apply to the Ordinaries of domicile and of the place where the marriage was contracted to ascertain whether the petition of the parties and their other assertions made in this preliminary hearing are truthful. Before the answers are received the judge may not proceed with the case. If an Ordinary answers that he believes that the parties carried the case to the court of quasi-domicile to conceal the truth, and he therefore requests that the case be tried in his diocese, the court of quasi-domicile shall decide whether the request of this Ordinary is to bo granted (Sacred Congregation of the Sacraments, December 23, 1929; Ac/α *Ap. Sedis,* XXII, 168-171).

(c) The Instruction of the Holy See of July 1, 1932, addressed to the Catholic Hierarchy on the conduct of marriage cases contained the following points:

(1) Every year in the month of January, the local Ordinaries shall either directly or through the Apostolic Delegate inform the Sacred Congregation of the Sacraments: («) of the names of the *Officialis* and other judges, of the *defensor vinculi,* actuary and advocates of the matrimonial court, giving their academic titles or at least a testimony as to their prudence and knowledge of Canon Law; (&) of the amount of money which the court requires the parties to deposit, the taxes and payments usually demanded in each case including the fees of the advocates and of the experts, if they were employed; what provision has been made for gratuitous service of the court for the poor, according to Canons 1908-1916; (c) of the number of matrimonial cases introduced, pending, and finished in the first or second instance. For each case it should be stated when the case was introduced and when decided in each instance; the reason for invalidity; title of competency; whether » or upheld the marriage in both the first and second instances, and if the nullity was declared, for what reason, if several reasons were advanced; how the *defensor vinculi* performed his office and whether the parties employed an advocate or procurator; (d) of the number of cases which were rejected by the court because they were not considered to have a solid foundation for a trial.

(2) The local Ordinaries were requested to send a statement through the Apostolic Delegate or Nuncio (if there be one in the place, or otherwise directly) within three months from January 1, 1933, concerning the matrimonial cases handled in their Curia during the preceding three years, 1930-1932, and in each case the items mentioned above in (1) should be given.

(3) If any diocese has such a small number of priests that the local Ordinary cannot establish a matrimonial court which could efficiently conduct matrimonial trials, the local Ordinary should not hesitate to inform the Sacred Congregation of the Sacraments in order that the Holy See may temporarily at least transfer jurisdiction over the cases of the diocese to the Curia of another diocese of the same province or the same country.

(4) If a diocese or archdiocese has been appointed as a court of appeal, according to Canon 1594, § 3, and cannot handle the cases of appeal without great difficulties, the local Ordinary should designate another Curia (preferably that of an archdiocese) for the appeal, and the Holy See will confirm the choice if it is satisfied that the Curia chosen has facilities to handle the cases of appeal.

(5) The reports of matrimonial cases demanded by the present Instruction shall be examined by a special committee of consultons of the Sacred Congregation, and they shall suggest remedies for the proper conduct of matrimonial trials, and if necessary an Apostolic Visitor shall be appointed to visit the tribunals and inquire whether the tribunals do their duty properly in this important matter.

(G) The foregoing regulations should not be considered extreme in view of the very great importance of matrimonial trials, which must be conducted with the greatest possible skill, solicitous care and diligent investigation lest the inviolable bond of marriage be exposed to danger. Moreover, the matrimonial cases must be finished within the time specified in Canon 1620, because frequently it is a matter of strict justice to settle the cases promptly not only for reason of the abnormal state and condition of families but also because of financial considerations (Sacred Congregation of the Sacraments, July 1, 1932; *Acia Ap. Sedis,* XXIV, 272).

## Canon 1971

(a) The Holy Sec was asked whether in matrimonial cases a non-Catholic can act the part of the plaintiff, and the answer was that he cannot, according to Canon 87. If, however, special reasons occur why non-Catholics should be admitted as plaintiffs, recourse is to bo had in each individual case to the Holy Office (Sacred Congregation of the Holy Office, January 27, 1928; *Acta Ap. Sedis,* XX, 75).

## Canon 1971 *(Continued)*

*(b)* Parties who are the cause of the impediment which invalidated their marriage cannot sue for declaration of nullity of the marriage. Impediments include also those improperly so-called, for example, vitiated consent, invalid form (cfr. Canons 1081-1103; Committee March 12, 1929; *Acta Ap. Sedis,* XXI, 171). The parties excluded from the position of plaintiff or petitioner by either Canon 1971, § 1, η. 1, or the decision of March 12, 1929, may denounce their marriage to the Ordinary or the promoter of justice, and these may take up the case *ex officio* (Committee, February 17, 1930; *Acta Ap. Sedis,* XXII, 196).

## Canon 1987

In accordance with Canon 1903 matrimonial cases never become irrevocably adjudged, but two uniform sentences in the same case have the effect that the case is not admitted for a further trial unless new and weighty arguments or documents are produced. The new arguments or documents must be grave, but they need not be most grave *(gravissima),* as is plain from Canon 1786, which distinguishes between grave and most grave reasons. It is not necessary that the reasons and documents are so evident as to entitle a person to reinstatement in the former right in the face of an irrevocably adjudged sentence. Cfr. Canon 1905, § 2, n. 2 [Sacred Roman Rota *(in Causa Diœcesis Z),* May 19, 1921; *Acta Ap. Sedis,* XIII, 546].

## Canon 1989

The rule which ordains that a sentence concerning the bond of marriage or the state of marriage does not become irrevocably adjudged (cfr. Canon 1903), does not apply when the bond of marriage has already been dissolved by death of one of the married parties. The reason is that the Code in this matter merely restates the former law, and therefore the Code must be interpreted according to the accepted interpretation of commentators on the former law (cfr. Canon 6). Now, the authors unanimously teach that a sentence in matrimonial cases cannot become irrevocably adjudged in those cases in which obedience to the sentence would foster sin, which could not be prevented by the consent of the parties [Sacred Roman Rota *(in Causa Ægypti),* June 20, 1922; *Acta Ap. Sedis,* XIV, 600].

Since Canon 1989 states that marriage cases never become absolutely final and unassailable, so that when new reasons are discovered the case may be reopened, the Holy See was asked whether the same marriage case can be tried again by another tribunal of the same grade (i.e., bv

another board of judges of the same diocesan court). The answer was that it cannot be tried again in the same grade by another tribunal (Committee, June 16, 1931; *Acta Ap. Sedis,* XXIII, 353).

## Canon 1990

Can the Ordinary with the omission of the formalities demanded by the Apostolic Constitution "Dei miseratione" of Pope Benedict XIV, November 3, 1741, pronounce a marriage null and void after consultation with the *defensor vinculi matrimonialis* without the necessity of a second sentence in the following cases:

(a) If two Catholics contracted a civil marriage in a place subject to the "Tametsi" of the Council of Trent, or in any place after the "Ne temere" Decree, and then obtained a civil divorce and desired to marry again in the Church, or having married again outside the Church ask that their marriage be validated;

(b) If a Catholic has married a non-Catholic in a non-Catholic church, has obtained a civil divorce, and then desires to marry a Catholic in the Catholic Church;

(c) If apostates from the Catholic Faith have married outside the Church, either before a civil magistrate or in a non-Catholic church, have obtained a civil divorce, and then return to the Catholic Church and desire to marry a Catholic in the Catholic Church? *Answer:* The above cases do not require any judicial procedure nor the intervention of the *defensor vinculi,* but are to be decided by the Ordinary himself or by the pastor in consultation with the Ordinary (Committee, October 16, 1919; *Acta Ap. Sedis,* XI, 479).

The certainty of the causes of nullity of the marriage spoken of in Canon 1990 may be established not only by authentic document but also by any other legitimate proof. The summons of the parties required by Canon 1990 must be issued before the declaration of nullity (Committee, June 16, 1931; *Acta Ap. Sedis,* XXIII, 353).

## Canons 1993 sqq.

(a) For the procedure to be followed in cases involving the nullity of Sacred Orders, etc., see Appendix XXII.

(b) All questions regarding the obligations annexed to Sacred Orders pertain to the Sacred Congregation of the Sacraments, even in the case of religious (see Canon 249).

# PART II

## CONCERNING BEATIFICATION AND CANONIZATIOIN

### Canon 1999

Investigation of historical causes of Servants of God is henceforth to be entrusted to the new Historical Department of the Sacred Congregation of Rites (see Canon 253).

### Canon 2039

Is the first paragraph of this Canon to be so understood that for the informative process in cases of Servants of God that Ordinary also is competent, in whose territory the witnesses can be conveniently examined? Answer: No; the precept of Canon 2039, § 1, must be observed (Committee, July 25, 1931; *Acta Ap. Sedis,* XXIII, 388).

### Canon 2101

Is the precept of this Canon to be extended to the discussion of the martyrdom of Senants of God? Answer: No (Committee, July 28, 1932; *Acta Ap. Sedis,* XXIV, 314).

# PART III

## CONCERNING THE MANNER OF CONDUCTING CERTAIN AFFAIRS AND APPLYING PENAL SANCTIONS

### Canon 2143

Does it suffice for the effect of removal to issue a public invitation to resign by the public posting of the edict or by publication in a paper or magazine, just as Canon 1720 permits a public summons to court, if the pastor has disappeared and conceals his place of sojourn with the intention of preventing the invitation from reaching him? Answer: Canon 2143, § 3, makes provision for that emergency, stating that he who prevents an admonition from reaching him is considered admonished (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 577).

### Canon 2146

Canon 2146 states that there is but one remedy against the final decree of removal of a pastor from his parish (namely, recourse to the Apostolic See), but that Canon docs not state within what time such recourse must be taken. The Sacred Congregation declares that the recourse must be taken within ten days from the time of receiving notification of the decree of removal, and the days are to be counted according to the rule of Canon 34, § 3, n. 3, and Canon 35 (i.e., the first day does not count and the ten days expire with the end of the tenth day, not counting the first day). The time is *tempus utile*—i.e., if one is ignorant of the right to have recourse, or if one is at that time unable to act, he has ten days after he attains knowledge or becomes able to act. The Ordinary must be informed by the pastor who takes recourse that he has done so [Sacred Congregation of the Council (in *Causa Romana et aliarum),* January 14, 1924; *Acta Ap. Sedis,* XVI, 162].

### Canon 2150

The Ordinary may accept the resignation of a parish with the reservation of a life pension not greater than one-third of the income of the parish (see Canon 1429).

### Canon 2154

The removed pastor need not undergo the examination on appointment to another parish (see Canon 459).

### Canon 2162

A transferred pastor need not undergo the examination (see Canon 459).

# BOOK V

## CONCERNING OFFENSES AND PENALTIES

### Canon 2233

In accordance with Canon 2233, § 2, after the violation of a precept to which a censure *ferendce sententia* is attached, can the penalty be pronounced against the transgressor immediately after the offense has been proved, or must a new admonition be given to him before the censure can bo pronounced? *Answer:* The censure can immediately be pronounced against him (Committee, July 14, 1922; *Acta Ap. Sedis,* XIV, 530).

### Canon 2247

*Peregrini* are bound by the reservations of the place wherein they arc staying (Committee, November 24, 1920; *Acta Ap. Sedis,* XII, 575).

### Canon 2252

Canon 2252 states that, if a priest without special faculties has absolved a dangerously sick person from censures reserved in a most special manner to the Apostolic See and the penitent recovers, recourse is to be made by the confessor to the Sacred Penitentiary or to the bishop or to another who has the faculty to absolve from those censures. The question is whether Canon 2252 is to bo understood in such a sense that recourse may always be made to the bishop, or only in case the bishop has faculty to absolve from those censures? *Answer:* Recourse to the bishop may be made only if he cither by law or by special Induit of the Holy See has faculty to absolve from the censures reserved in a most special manner to the Holy See (Committee, November 12, 1922; *Acta Ap. Sedis,* XIV, 663).

### Canon 2316

(a) Must the Instruction of the Sacred Congregation of the Holy Office, issued September 16, 1864, with reference to the participation of Catholics in a certain society established at London for

## Canon 2316 *(Continued)*

the reunion of all Christians, be applied and observed by the faithful also with reference to their participation in any meetings, public conventions and private gatherings arranged by non-Catholics for the purpose of uniting all organizations of Christians? Zasicer; Yes, and the above-mentioned Instruction, together with other letters of the Holy See to certain Anglican Puseyites, issued November 8, 18G5, are again to be published in the official organ of the Holy See (Holy Office, July 4,1919; *Acta Ap. Sedis,* XI, 309).

(&) Can the doctrines called theosophism be harmonized with the Catholic doctrine, and is it lawful to join theosophistic societies, be present at their conventions, and read their books, periodicals, newspapers and other writings? *Answer:* All these things are forbidden (Holy Office, July 18, 1919; *Acta Ap. Sedis,* XI, 317).

(c) The general prohibition to take part in societies of non-Catholies for the union of all Christian Churches was repeated by the Holy Office, July 8, 1927 (Acta *Ap. Sedis,* XIX, 278).

## Canon 2334

It does not suffice for the purpose of incurring the excommunication spoken of in Canon 2334, § 2, to have recourse to the civil authorities in order to impede the exercise of ecclesiastical jurisdiction; actual interference is necessary, but the attempt to obtain such interference is punishable according to Canon 2235 (Committee, July 25, 1926; *Acta Ap. Sedis,* XVIII, 393).

## Canon 2351

The combats of German Universities called "Mensuren" had been forbidden as duels in the strict sense of the term by the Sacred Congregation of the Council, August 9, 1890. In recent times a distinction began to be made by some Catholic authors between those combats which are fought with weapons apt to inflict a serious wound and those which ordinarily would cause only slight injury. The Sacred Congregation of the Council does not admit any distinction, but absolutely forbids the "Mensuren" under the penalties of Canon Law against duels (June 20, 1925; *Acta Ap. Sedis,* XVIII, 132-138).

Regarding the irregularity of duellists and their seconds, see Canon 984.

## Canon 2381

This Canon applies also in case of non-residence which is not grievously sinful (see Canon 420, b).

## Canon 2386

This Canon applies also to clerical societies without vows (see Canon 673).

This Canon must be applied also in case of a non-residence that is not grievously sinful (see Canon 420, b).

## Canon 2387

This Canon applies also to clerical societies without vows (see Canon 673).

## Canon 2389

This Canon applies also to clerical societies without vows (see Canon 673).

## Canon 2410

This Canon applies also to a clerical society without vows, if such society enjoys the privilege of issuing dimissorial letters to its subjects (see Canon 673).

## Canon 2411

The first part of this Canon applies also to clerical societies without vows; for the rest of the Canon, the constitutions of each Society must be followed (see Canon 673).

## Canon 2413

This Canon applies also to clerical societies without vows (see Canon 673).

# APPENDIX I

## Formula of Faculties Issued to the Individual Bishops in the United States and Other Countries

(Cfr. Canon 66)

### I. Faculties from the Sacred Congregation of the Holy Office

1. To grant for not more than three years permission to read, and keep under custody that they may not fall into the hands of others, forbidden books and periodicals with the exception of those which ex *professo* defend heresy or schism, or endeavor to destroy the very foundations of religion, or works which *ex professo* treat of obscene matters. The permission may be granted to the individual faithful subject to him but with discretion and for a just and reasonable cause (cfr. Canon 1402, §2), to those namely who truly need to read these books and periodicals either to oppose them or to be able to attend to their legitimate business, or to follow a legitimate course of studies.

Note.—This faculty is granted to the bishops to be made use of in person (that is to say, without delegating it to anyone), and their conscience is burdened with the grave obligation to see that in each case the above-mentioned conditions are really present.

2. To dispense for just and grave reasons his subjects, even while they are outside the territory of his diocese, and non-subjects while they are in his diocese, from the *impediment of mixed religion,* and, if necessary, also from *disparity of cult ad cautelam,* whenever there is a prudent doubt concerning the reception of Baptism by the non-Catholic party, when the non-Catholic cannot before the marriage be induced to embrace the true Faith or the Catholic party cannot be dissuaded from the marriage. The faculty is granted under the proviso that, prior to the dispensation, the promises spoken of in Canon 10G1, § 2, are regularly made, and the Ordinary himself is morally certain that the promises will be kept. These» promises are: on the part of the non-Catholic party to remove from the Catholic party danger of perversion (that is, neglect of his religious duties and loss of faith), and on the part of both parties that they absolutely promise to baptize and educate all children, male and female, in the Catholic religion. The Catholic party shall, moreover, be informed of the obligation he (or she)

has to work prudently for the conversion of the non-Catholic party to the Catholic Faith.

The parties should be warned that they are forbidden to approach a non-Catholic minister, either before or after the marriage before the Church, to give or renew their consent, as forbidden by Canon 1063, § 1, under penalty of *lata sententice* excommunication reserved to the Ordinary for the Catholic party, in accordance with Canon 2319; if the pastor knows with certainty that the parties will violate, or have already violated this law (cfr. Canon 10G3), he shall not assist at their marriage until he has consulted the Ordinary.

If the parties actually live in concubinage, appropriate means should be employed to remove scandal if it exists, and the Catholic party should be properly disposed to receive the grace of God, and, if he perhaps attempted marriage before a non-Catholic minister, he should be absolved from the excommunication he has incurred, and appropriate salutary penances should be imposed on him.

3. To dispense for just and grave reasons his subjects even while they are outside his territory, and non-subjects while they are within his territory, from the *impediment of disparity of cult* (except in the case of marriage with a Jew or a Mohammedan), if it can be done without irreverence to the Creator, and the unbaptized party cannot before marriage be induced to embrace the true Faith or the Catholic cannot be dissuaded from the marriage. The faculty is granted with the proviso that, prior to the dispensation, the parties have regularly made the required promises, in accordance with Canon 10G1, § 2, and that the Ordinary is morally certain that the promises will be kept. These promises are: on the part of the unbaptized party to remove from the Catholic party the danger of perversion, and on the part of both parties that all the children, male and female, shall be baptized and educated in the Catholic religion. The Catholic party shall, moreover, be informed of the obligation he (or she) has to work prudently for the conversion of the unbaptized party to the Catholic Faith.

The parties should be warned that they are forbidden to approach a minister of a false cult, either before or after the marriage before the Church, to give or renew the consent, as forbidden by Canon 10G3, §1. The precept of Canon 1063, §2, concerning the course of action of the pastor in case of disobedience of the foregoing precept is to be strictly observed. With reference to the legitimation of the offspring, Canon 1051 is to be kept in mind.

If the parties actually live in concubinage, appropriate means are to be taken to remove the scandal, if there is any, and the Catholic party is to be properly disposed to receive the grace of God.

For the rest, regarding the publication of the banns, the interro-

gation concerning the consent, and the sacred rites (either in a mixed marriage or in one with disparity of cult), the precepts of Canons 1026, 1102 and 1109 are to be observed, and, after such marriages have been contracted, either in his own territory or in the territory of another Ordinary, the Ordinary shall see that the married parties faithfully keep the promises which they have made.

4. To validate marriages by the *sanatio in radice,* when marriage has been attempted before a civil magistrate or a non-Catholic minister by his subjects (even if they thus married outside his diocese), or by non-subjects if they attempted marriage in his diocese, with the impediment of mixed religion or disparity of cult. The faculty is granted with the proviso that the consent in both parties perseveres, and that the consent cannot be renewed in legal form, either because the non-Catholic party cannot be admonished concerning the invalidity of the marriage without danger of great harm or hardship for the Catholic party, or because the non-Catholic party cannot in any way be induced to renew the consent before the Church, or to make the promises prescribed by Canon 1061, § 2; with the exception (1) of the case in which the non-Catholic party is opposed to the baptism or Catholic education of the children, both male and female, already born or to be born in the future; (2) of the case in which the parties before the attempted marriage bound themselves either privately or by a public agreement not to raise the children spoken of in (1) in the Catholic Faith. The faculty is granted under the further proviso that the Ordinary may grant it then only when there is no other diriment impediment for which he has not the faculty to dispense or to grant a *sanatio.*

The Ordinary shall seriously impress on the Catholic party the very grievous offense committed, impose salutary penances on him, and if necessary absolve him from the excommunication, in accordance with Canon 2319, §1, n. 1; and shall declare that, in virtue of the *sanatio* accepted by the said party, the marriage has become valid and legal and indissoluble by the divine law, and that the offspring which he has or shall have is legitimate. The Ordinary shall, moreover, remind the Catholic party of the obligation which he always has to procure, in so far as lies in his power, the baptism and education in the Catholic religion of all children, male and female, already born or to be born, and to work prudently for the conversion to the Catholic Faith of the non-Catholic spouse.

As it is necessary to have proof in the external forum of the validity of the marriage and the legitimation of offspring, the Ordinary shall command that in every case the document of the *sanatio,* together with the attestation of its execution, be carefully preserved in the

local Curia, and he shall also order that the *sanatio* of the marriage be recorded in the baptismal record in the parish where the Catholic party was baptized, with the day and year, unless the Ordinary thinks it advisable to omit this annotation.

The mind of the Sacred Congregation is that the bishop shall make use of this faculty in person (i.e., shall subdelegate nobody).

Note.—(1) In each case in which a dispensation or a *sanatio* is granted in virtue of the foregoing faculties, the bishop or Ordinary shall make explicit mention of the Apostolic delegation (Canon 1057).

(2) The Ordinary shall at the end of every year make a report to the Holy Office of the number and kind of dispensations granted in virtue of these faculties.

II. Faculties from the Sacred Congregation of τπε Sacraments

1. To dispense for a just and reasonable cause from the impediments of marriage of lesser degree enumerated in Canon 1042, and also from the impedient impediments mentioned in Canon 1058, for the purpose only of contracting marriage.

2. For a grave and urgent cause, whenever there is danger in delay and marriage cannot be deferred until a dispensation from the Holy See can be obtained, to dispense from the following impediments:

(a) consanguinity in the second or third degree mixed with the first, provided no scandal or sensation arises therefrom;

(b) consanguinity in the second degree of the collateral line;

(c) affinity in the first degree of the collateral line, either simple or mixed with the second degree;

(d) public propriety *(honestas)* in the first degree, provided there is no possibility that one of the spouses might be the offspring of the other spouse.

3. To dispense at the time and in the act of pastoral visitation or sacred missions, not otherwise, from all matrimonial impediments mentioned above in favor of those who are found living in concubinage.

4. To validate marriages by the *sanatio in radice* which were contracted invalidly for reason of one of the impediments of ecclesiastical laws of both minor and major degree, with the exception of the impediments arising from the sacred order of the priesthood and from affinity in the direct line arising from consummated marriage, if it would occasion great hardship to demand the renewal of consent of the party ignorant of the nullity of the marriage, provided the first marital consent perseveres and there is no danger of divorce. The party conscious of the impediment is to be instructed concerning the effect of this

*sanatio,* and annotation of the marriage is to be made in the baptism and marriage registers.

NOTE.— (1) The Ordinary may make use of the above-mentioned faculties either in person or through other qualified ecclesiastical persons specially appointed for this purpose, and the faculties may be used in favor of marriages to be contracted and those contracted invalidly by his subjects even when they are actually outside his territory, and by non-subjects actually staying in his territory·, and in every case explicit mention shall be made of the Apostolic delegation according to Canon 1057.

(2) In the use of the faculties the precepts of Canons 1048-1054 must be kept in mind.

(3) The Ordinary shall at the end of each year report to the Sacred Congregation of the Sacraments through the Sacred Consistorial Congregation the number and kind of dispensations he has granted in virtue of these faculties.

### III. Faculties from the Sacred Congregation of the Council

1. To reduce, for five years, perpetual Mass obligations to such a number that the legitimately established stipend of the diocese may be received for every Mass, whenever the income or interest from the fund set aside for that purpose has been diminished, and there is nobody who by law is obliged and can effectively be forced to increase the Mass stipends. The diocesan Curia shall be notified annually of the celebration of the reduced number of Masses by each celebrant.

2. To transfer for five years within the territory of the diocese obligations of Masses to days, churches and altars other than those specified in the foundation of those Masses, provided that there is real necessity, and that divine worship is not thereby diminished, and that nothing is done to make it more inconvenient for the people to hear Mass. Masses ordered by legacies (to be said on certain days, at certain churches or altars) arc not to be transferred, if they can easily be said in those places by increasing the stipend. The diocesan Curia is to be informed by each celebrant annually of the fulfillment of the transferred Masses.

3. To transfer, for five years, Mass obligations, which are too numerous to be said in the place where they· are offered, to other places, even outside the diocese, provided that the greater number of Masses is said within the territory of the diocese, and that the precepts of the Code of Canon Law regarding the safeguards to be taken in committing Mass obligations to others are faithfully observed.

4. To permit the anticipation of the private recitation of Matins

and Lauds from one o'clock in the afternoon, whenever there is a reasonable cause.

5. To permit the alienation of ecclesiastical goods to the sum of ten thousand dollars in the United States and in Canada; fifteen thousand pesos in South America and other countries. The permission can be granted only when necessity demands it, and when there is no time to have recourse to the Holy Sec, and the Holy See shall immediately be informed of the affair as soon as the alienation has been effected.

6. To dispense the faithful from fast and abstinence when a civil holiday falls on a day of fast or abstinence or of both fast and abstinence (granted for five years by Decree of the Sacred Congregation of the Council, October 15, 1931).

### IV. Faculties from the Sacred Congregation of Religious

1. To dispense from illegitimate birth as an impediment to joining a religious community, if the constitutions make illegitimacy an impediment, provided there is no question of the offspring from sacrilegious intercourse, and provided that the superior requests the dispensation and the one dispensed is not elected to the office of a major superior, in accordance with Canon 504.

2. To permit the celebration of three Holy Masses at midnight on Christmas in the churches of religious not comprehended in Canon 821, §3, with the faculty to distribute Holy Communion to those present. The three Masses, however, must be said by one and the same priest.

3. To dispense persons who are too old to enter religious life, if a certain institute has an age limit in its constitutions. In each case the .Mother General or Provincial is to be consulted, and the consent of such superiors and of their respective council is required, and the postulant must not be over forty years of age, and must possess all other qualifications demanded (by the general and the particular law).

4. To dispense: (a) from the lack of the canonical age required for ordination to the priesthood, provided, however, that the lack docs not exceed twelve months. The Ordinary may use this faculty also for the benefit of exempt religious, provided they have received from their superiors the dimissoria! letters, and the candidates have all other qualifications required by the Sacred Canons, and have especially completed the required course of theology in accordance with Canon 97G, § 2; (b) from the lack of the required age even when it is over twelve months but not beyond sixteen months, provided the candidates do not enjoy or stand in need of another Apostolic dispensation, and that the other conditions mentioned under (a) be observed.

5. To dispense from the partial or entire lack of the dowry in the case of women who wish to join a community of nuns or Sisters, provided that the financial condition of the institute does not suffer thereby, and that the postulants are endowed with such qualities that one can entertain the well-founded hope that they will be very useful to the institute.

6. To confirm the confessor for a fourth and fifth term of three years, provided that the majority of the religious women have given their consent by secret vote in a meeting called for that purpose, and that also those have been allowed to vote who in other affairs have no vote. For those who dissent and demand another confessor provision must be made accordingly.

7. To permit the celebration of Holy Mass on Holy Thursday and to allow the persons who live habitually in the community to receive Holy Communion and thus satisfy the obligation of the Easter Communion.

8. To permit nuns (sisters with solemn vows) to enter the church (attached to their convent) to clean and decorate it. Before the nuns enter the church all others who do not belong to the cloistered community—even the confessor and the servants who live outside the convent—must have left it, the doors must be locked, and the key given to the superioress. One nun shall never be left alone in church, and there must be at least tw'o. The door which opens from the convent into the church shall be locked with a double lock, the key of one being in the hands of the superioress, and that of the other in the hands of the nun appointed by the Ordinary'. The door shall not be opened except in the aforesaid cases and under the prescribed precautions.

9. To permit nuns to go outside the enclosure when a surgical operation becomes necessary, even though there is no imminent danger of death or grievous consequences. The permission lasts only for the time strictly necessary, and the prescribed precautions must be taken.

### V. Faculties from the Sacred Congregation of Rites

1. To delegate priests—if possible, men who are vested with an ecclesiastical dignity—to consecrate immovable and portable altars with the rite and form prescribed by the *Pontificale Romanum,* and, in the case of portable altars, also with the shorter form of the Roman Ritual.

2. To delegate priests—if possible, men vested with an ecclesiastical dignity—to consecrate immovable and portable altars which have lost their consecration. In the cases of desecration spoken of in Canon 1200, §2, Formula B is to be used; in the cases of desecration

mentioned in Canon 1200, § 1, the faculty (to use the shorter form) is already given by the Canon, and Formula A is to be used. (The Roman Ritual marks the two formulas "I" and "II," instead of "A" and "B.")

3. To delegate priests—if possible, men vested with an ecclesiastical dignity—to consecrate chalices and patens with the rite and form of the *Pontificale Romanum*.

4. On the days in Holy Week on which the Passion is read in Mass, to permit priests who by Apostolic induit say two Masses on one day to omit the Passion in one Mass, and read only the last part *(Altera autem die)*, saying before this portion the *Munda cor meum, Sequentia S. Evangelii, etc.*

5. To bless marriages outside of Mass, or to recite over the married couple the prayers according to the approved formulas, with the faculty to subdclegate.

6. To bless and impose the five scapulars under one formula with power to subdelegate.

7. To make use of the foregoing faculty without the obligation of recourse to the Ordinaries or to the competent religious Congregations and without the obligation of registering the names in cases of great concourses of people at the time of retreats and missions, with the faculty to subdelegate.

8. To bless holy oils on Holy Thursday with that number of priests and sacred ministers which the bishop can have considering the circumstances, places and conditions. The faculty is given to the officiating bishop.

9. To permit the use of incense in High Masses said without deacon and subdeacon on doubles of the first and second class, Sundays, and in High Masses celebrated during the Exposition of the Blessed Sacrament and at the altar of exposition.

10. To permit the use of the *Memoriale Rituum* of Pope Benedict XIII in churches and public and semi-public oratories (non-parochial or quasi-parochial) for the sacred functions of the last three days of Holy Week, and in the blessing of ashes on Ash Wednesday and of candles and palms, provided the sacred functions are conducted with due decorum and reverence.

11. To bless religious objects with the Sign of the Cross and the observance of the rites prescribed by the Church. On the occasion of the pastoral visitation, when many persons ask to have diverse religious articles blessed which would have to be blessed with various formulas, the Ordinary may in these circumstances bless all the objects with this one short formula: "Benedicat hæc omnia Deus, Pater, et Filius et Spiritus Sanctus. Amen." This faculty is personal to the Ordinary.

12. To celebrate a Low Mass of Requiem once a week in his own oratory, provided the day is not a double of the first or second class, a Sunday, holyday of obligation (even a suppressed one), a privileged octave, a feria of Lent, an Ember Day, Rogation Monday, a vigil or a feria on which the Mass of a Sunday, postponed or anticipated, is to be said.

### VI. Faculties from the Sacred Penitentiary

1. To absolve all penitents (with the exception of heretics purposely spreading heresy among the faithful) from all censures and penalties of ecclesiastical law incurred through heresies committed cither without anyone hearing or noticing them or manifested before others, after the penitent has made known and denounced, as prescribed in law, the teachers who professedly teach heresy (if he knows any), and ecclesiastical or religious persons who perhaps were his accomplices in heresy. And, if there are just reasons why he cannot make the said denunciation before his absolution, he may be absolved under the serious promise to make the denunciation as soon and as well as he can, and in every case he shall before being absolved abjure the heresies secretly before the one who absolves him. Salutary penances in proportion to his guilt shall be imposed on him with the obligation to receive the sacraments frequently and the duty to make retraction of bis heresies before those persons before whom he manifested them and to repair the scandal which he gave.

2. To absolve from ecclesiastical censures and penalties those persons who have defended, knowingly read or kept in their possession books of apostates, heretics or schismatics, which defend apostasy, heresy or schism, or other books condemned by name by Letters Apostolic. Appropriate salutary penance shall be imposed on them, and they shall be obliged before receiving absolution, if possible, to destroy those books or give them to the Ordinary or to the confessor.

3. To absolve from censures those who have directly or indirectly impeded the exercise of ecclesiastical jurisdiction of either the internal or external forum by having recourse to any laical authorities for that purpose.

4. To absolve from ecclesiastical censures and penalties decreed against duelling in cases only which have not been brought before the external forum. A heavy penance is to be imposed, together with other conditions demanded in law.

5. To absolve from ecclesiastical censures and penalties those who have joined the Masonic sect and other associations of that kind which plot against the Church or the legitimate civil authorities. They can

be absolved under condition only that they separate themselves entirely from the respective sect or society and abjure it, that they, in accordance with Canon 2336, § 2, denounce ecclesiastical and religious persons whom they know to be members, and that they deliver to the one absolving them books, manuscripts and insignia concerning the sect or society, if they have any in their possession; these are to be forwarded as soon as possible to the Holy Oilicc, or at least—if just and grave reasons prevent their being forwarded—destroyed. A grave penalty in proportion to the gravity of guilt is to be imposed, together with the obligation to receive the sacraments frequently and the duty to repair the scandal.

6. To absolve from ecclesiastical censures and penalties those who have violated the enclosure of regulars or nuns by entering without legitimate permission, and those who ushered them in or admitted them, provided it was not done for any gravely sinful purpose, even though the sinful purpose was not accomplished, and provided that the matter has not been brought before the external forum. An appropriate penance proportioned to the gravity of the offense shall bo imposed.

7. To dispense persons who in violation of the vow of perfect and perpetual chastity made privately after the completion of the eighteenth year of age contracted marriage, in order that they may be permitted to ask for the *debituni conjugale.* These penitents arc to be informed that they are bound by the vow outside the proper use of marriage and if they should survive their partner.

8. To dispense from the occult impediment of crime, after marriage has been attempted, provided the impediment was incurred without mutual cooperation (cfr. Canon 1075, §3). The parties who live in invalid marriage must be informed of the necessary secret renewal of consent, and a heavy, long penance shall be imposed on them.

To dispense from the occult impediment of crime before marriage has been attempted, provided there was not mutual cooperation in the crime. A heavy, long penance is to be imposed.

9. To dispense from irregularity caused by voluntary homicide or abortion spoken of in Canon 985, § 4, but for the purpose only that the penitent may exercise the orders already received without the danger of infamy or scandal. The penitent is to be obliged to have recourse to the Sacred Penitentiary within one month (by letter written either by someone else or by himself, without mentioning his name), explaining all the circumstances of the case and especially how often he committed the offense, and he is bound to obey the orders of the Sacred Penitentiary.

10. To grant, under the usual conditions:

(A) a plenary indulgence to be gained by the faithful who (a) once a year assist at a Mass celebrated by the Ordinary in pontificals, the Ordinary announcing the day in the various places of the diocese; (b) devoutly visit a church or public or semi-public oratory while the Ordinary performs the canonical visitation; (c) visit the church at the time when the diocesan synod is held there; (d) receive Holy Communion at a General Communion once a year at the cathedral church or any other church appointed by the Ordinary; (e) at the time of a mission conducted in the diocese with permission of the Ordinary, hear at least one-half of the number of sermons preached;

(B) a partial indulgence of 200 days to be gained by those who assist at any of the sermons spoken of above under (e).

Note.—(1) The Ordinary may use the foregoing faculties to absolve from censures and to dispense in the internal forum, even outside of sacramental confession, in favor of his subjects even when either the Ordinary or the penitent or both are outside the diocese and in favor of non-subjects within the limits of his territory. This is conceded to the Ordinary by special authority of the Apostolic See. Within the diocese only the Ordinary may grant these faculties even habitually, if he pleases, to the canon penitentiary and to vicars forane but for the forum of conscience and in sacramental confession only. To other confessors, however, he may grant these faculties for particular cases only when they have recourse to him for their penitents, unless for reason of peculiar circumstances he sees fit to grant them generally to some confessors to be appointed especially by him for a length of time to be fixed at his discretion.

(2) The Ordinary cannot delegate the faculty to grant the above-mentioned indulgences but must make use of the power in person.

# APPENDIX II

(Cfr. Canons 126 and 595, § 1, η. 1)

## Encyclical of His Holiness, Pope Pins XI, on Spiritual Retreats

"When we proclaimed an Extraordinary Jubilee for the whole Catholic world on the occasion of the fiftieth anniversary of our ordination to the holy priesthood, everybody knew what our mind and intention was. As we solemnly declared in the Apostolic Constitution 'Auspicantibus Nobis,' January 6, 1929, we had been induced to grant the Jubilee not only by the hope that the immense family of Christians confided to the eare of our heart by the most kind Heart of God might share in the joy of their common Father and give thanks, together with us, to the Supreme Giver of all gifts, but we had moreover the pleasant expectation that the Christian people, once the treasury of celestial gifts was opened to them with paternal liberality by us to whom the dispensation of heavenly gifts is committed, would make use of tliis opportunity for the strengthening of their faith, the increase of piety and perfection, the sincere amendment of private and public life according to the norm of the Holy Gospel, whence, as one of the most agreeable fruits of peace with and pardon from God, was to be expected peace between individuals and in society.

"Nor has this our hope been in vain. For the religious fervor with which the Christian people received the promulgation of the Jubilee did not cool off in the course of time, but we saw it increase more and more with the help of God who called forth those events which shall perpetuate the truly salutary memory of this year for all posterity. We have had abundant reasons to rejoice, since we have with our own eyes seen a great deal of the glorious increase of faith and piety, and we have enjoyed the happiness of seeing a great multitude of our most dear children, whom we have gladly admitted to our house and have had the happiness to press, so to say, to our heart. While we give very earnest thanks to the Father of mercies who has deigned to start the growth of and to ripen and gather so many and such great fruits in the course of this year of atonement, pastoral solicitude prompts and compels us to see that out of these happy beginnings

greater and lasting advantages may accrue by which the happiness and welfare of individuals and society generally may be obtained.

"While we were reflecting in what way and manner these fruits may be obtained, there came to our mind Pope Leo XIII, of happy memory', who when announcing a Holy Year on one occasion exhorted all the faithful in most impressive words (which we have repeated in the above-mentioned Constitution 'Auspicantibus Nobis') to collect themselves for a moment and raise their thoughts, so intensely concentrated on the earth, to better things. The same thought was in the mind of Pope Pius X, of sacred memory, who had by word and example promoted sacerdotal sanctity, when on the occasion of the fiftieth anniversary of his ordination to the priesthood he addressed a most tender exhortation to the Catholic clergy, replete with most precious and exquisite documents by which the edifice of spiritual life may be raised to an unusual height.

"Following in the footsteps of these Pontiffs, we think it opportune to do something ourselves. We wish to urge a certain excellent practice from which we hope there will flow very many and excellent benefits to the Christian people. We mean the use of the Spiritual Exercises, which we ardently desire to see spread daily more and more, not only' among the secular and religious clergy', but also among the rank and file of Catholic lay people. This use of the Spiritual Exercises we wish to leave to our beloved children as the monument of this sacred year. We do this all the more gladly because it is the end of the fiftieth year of our holy priesthood. There can be nothing more pleasant to us than to recount the memory of the celestial graces and unspeakable consolations which we have so often experienced when making retreats; to recall the assiduity with which we attended the sacred retreats by which we have, as by' so many steps in a stairway, marked our priestly career; to recount the light and inspirations which we received during them to know the Divine Will and to do it; to recall with no less satisfaction the long years of the priestly ministry' during which the Lord granted us to consecrate ourselves again and again to the work of the spiritual retreats, and we can testify to the immense salutary effects which are derived from them for the special help towards eternal salvation.

"For more than one reason we can judge of the importance, utility and timeliness of sacred retreats, when we consider even superficially the times in which we live. The gravest illness from which our times suffer, and which is at the same time a fertile source of evils that every thinking man laments, is the levity and lack of thought which drives men to all but heavenly things. Hence the continual and feverish activity in external affairs} hence the insatiable desire for riches and

pleasures, which gradually diminishes and extinguishes in the rninds of men the desire for higher goods and implicates them to such an extent in the external and perishable things that it prevents them from thinking of the eternal truths, of the divine laws and of God Himself —the only principle and end of all created things, who neverthless even in these days, when the perversion of morals is ever so great, in His infinite goodness and mercy continually draws men to Himself by pouring out a most generous measure of grace. To cure this illness from which the human family suffers so severely, what better help and relief can we suggest than to invite those enervated souls, neglectful in the affairs of eternity, to the pious recollection of the spiritual retreats? And indeed, if the Spiritual Exercises were nothing more than a few days' retirement during which men are given an opportunity to spend these days away from the great crowd and from the cares of life, not in idle rest but in the meditation of the most serious questions which unceasingly agitate the human race—namely, questions about its origin and its end, 'whence men come and whither they go'—nobody will deny that the Spiritual Exercises can produce considerable fruits."

Continuing, the Holy Father declares that spiritual retreats are a great weapon against the naturalism or materialism so prevalent in these times, a means to obtain real peace and happiness of mind in the midst of people who seek supreme satisfaction in worldly goods and pleasures, an inspiration to help others to seek their happiness in God.

Christ gave us an example of spiritual retreats by His retirement at the house of Nazareth, by His invitation to the Apostles to go with Him to a secluded place and rest a while (Mark, vi. 31); the Apostles gave an example by their ten days' retirement at the cenacle before the coming of the Holy Ghost. Among the Fathers of the Church, St. Jerome and St. Peter Chrysologus recommended retirement for a while to devote oneself to the things of God and one's soul; Pope St. Leo the Great gives the same advice. St. Alphonsus Liguori calls the Spiritual Exercises performed in solitude "a treasure of God"; St. Charles Borromeo endeavored to promote spiritual retreats ajnong the clergy and the laity. Many Popes have recommended the pious practice, and have instituted it at the Vatican. The Holy Father praises those bishops of ecclesiastical provinces who make a few days' retreat in connection with their meeting for deliberation on the spiritual affairs of the Province.

The Holy Father exhorts all clerics and religious to observe very zealously what Canon Law requires of them concerning spiritual retreats, and that they should consider these days, not as a loss to their

work of religion, but rather as a necessary means to refresh and strengthen themselves for more zealous work for the honor of God and the welfare of souls.

Not only for the secular clergy and the religious organizations, but also for lay people (especially those banded together under the organization known as "Catholic Action"), are the spiritual retreats to be the means of obtaining light and strength to spread the kingdom of Christ on earth in cooperation with the Catholic hierarchy.

Workingmen and mechanics, who in our time more than ever before have been enabled by higher wages to enjoy some of the comforts of life, are to be encouraged to make spiritual retreats in order that they may not be so absorbed by the affairs of the world as to forget their ultimate destiny.

If the Spiritual Exercises are to bring the desired results, they must be conducted with great solicitude and prudence, and for a sufficient length of time to get the mind firmly concentrated on spiritual things; for this purpose absolute silence and recollection arc a great help. The ideas and principles of the Spiritual Exercises of St. Ignatius are especially recommended by the Holy See as the basis for all retreats. St. Ignatius has been proclaimed the Heavenly Patron of the Spiritual Exercises by the Constitution of Pope Pius XI, July 25, 1922. The Holy Father recommends to all—secular clergy, religious communities and parishes—the practice already in vogue in many places of having during each month, or at least every quarter of the year, a day of recollection. In this way many people who cannot attend a prolonged retreat will have at least some special means of refreshing their souls and directing all their activities to the honor of God (Encyclical of Pope Pius XI, December 20, 1929; *Acta Ap. Sedis,* XXI, 689).

# APPENDIX III

## Concerning the Emigration of Priests from Europe or Countries Bordering on the Mediterranean Sea to America or the Philippine Islands

(Cfr. Canon 143)

Priests of the Latin Rite who wish to go to these countries for a long or an indefinite period of time, must obtain the permission of their own Ordinary; the vicar-general or the vicar-capitular cannot grant this permission. The Ordinary may give this permission only to priests who are his own subjects by a canonical title, and they must have served in his diocese for several years. They must be men of high mental and moral standing, and they must have a good motive for desiring to emigrate (e.g., to attend to the spiritual needs of their countrymen, or to go to places where priests are needed, or to regain their health, etc.). The bishop who grants leave to his priest to go to America or the Philippine Islands must, before issuing permission, enter into direct correspondence with the Ordinary of the place to which the priest wants to go, give him the proper information on the life and character of the priest, and ask him whether he is willing to employ him in the ecclesiastical ministry (not merely ηἳιολν him to say Mass), if the priest is able to work. Unless he gets an affirmative answer to his question, he shall not permit the priest to leave. The bishop who is requested to admit the priest to the ecclesiastical ministry in his diocese, shall not accept him unless he has work for him.

The letters by which the bishop grants the priest permission to go to America or the Philippine Islands shall explicitly state whether the permission to leave is temporary, or permanent, or at the will of the bishop, shall mention the fact that the other bishop has agreed to accept him, and shall describe the priest sufficiently so that no mistake concerning his identity is possible; otherwise the letters are of no value.

The Ordinaries of Italy may not issue letters granting permission to go to America or the Philippine Islands, but, after they have made the arrangements with the other bishop, shall submit the matter to the Sacred Consistorial Congregation, which shall issue the letters granting permission and forward them to both bishops. The same

applies to the bishops of Spain and Portugal, with this difference that the Legates of the Apostolic See in those countries shall issue the letters of permission.

Priests who have obtained legitimate permission to go to America or the Philippine Islands should be permitted to exercise the sacred ministry also in places through which they pass, if they are detained there for some time through illness or any other just cause, unless some special and extraordinary reason exists why the priest can not be permitted to exercise the sacred ministry. Priests who have been legitimately permitted to emigrate may also, with the consent of both bishops and the observance of the laws of the Code on incardination, be incardinated in a diocese in America or the Philippine Islands. With the consent of the bishop who first received them and the bishop to whose diocese they wish to go, such priests may later transfer to another diocese. Their o\vn bishop in Europe must be notified of the transfer as soon as possible; in the case of Italian, Spanish or Portuguese priests, the Holy See or the respective Legate of the Holy Seo who gave the permission to emigrate must be notified. The new bishop who received the priest into his diocese has the obligation to notify the proper Ordinary of the priest, or the Holy See, or the Papal Legate. The Ordinaries are instructed by the Holy See not to permit the immigrant priests to live in private houses, or in boarding houses or hotels, but in houses under ecclesiastical supervision, or in the parish rectory, or in some religious house. If the priests do not obey, the bishop shall give them peremptory warning, and, if they fail to obey the warning, he shall forbid them to say Mass.

While they are members of the community, religious may be sent by their superiors in Europe to other houses of the same organization in America or the Philippine Islands, but the Holy See warns the superiors to take care to send only men λνΐιο are well educated and of blameless character.

Religious who have obtained temporary permission to live outside their own organization *(exclaustrati)* and secularized religious are subject to the same laws as secular clerics in reference to emigration to America and the Philippine Islands.

If such clerics desire to go to these countries for a short time, not exceeding six months, they do not need to find a bishop who is willing to employ them in the ecclesiastical ministry. It suffices that they have a good reason to go, and obtain permission from their own Ordinary, who shall indicate in his letters the reason for the journey and the term of the leave of absence granted to the priest. In the case of Italian, Spanish or Portuguese priests, the *beneplacitum* of the Holy See or of the Papal Legate must be obtained. The Ordinary

who allows his cleric to travel to America or the Philippine Islands must see that the cleric has sufficient money, not only to reach his destination, but also for the return trip; he shall insist that the money for the return trip be deposited with some bank, or safely kept in some other manner, so that the lack of money may not prevent his return. Religious who are temporarily separated from their organization *(exclaustrati)* and secularized religious are subject to this law like secular clerics.

If, at the expiration of the leave of absence, the cleric cannot return at once for reason of illness or any other necessity or just cause, the Ordinary of the place where the priest stays may prolong the leave of absence, but must at once inform the priest's proper Ordinary and the Holy See, or the Papal Legate, who gave the *beneplacitum* for the leave of absence.

These laws apply also to priests who assist emigrants either of their own choice or at the request of an emigration society. Priests who do not obey these laws, and in defiance of them emigrate, are automatically suspended *a divinis,* and, if they nevertheless dare to say Mass, they incur irregularity, from which penalties they can be absolved only by the Sacred Consistorial Congregation (Sacred Consistorial Congregation, December 30, 1918; *Acta Ap. Sedis,* XI, 39).

# APPENDIX IV

## Faculties Granted by the Sacred Consistorial Congregation After the Promulgation of the Code (Revoking Former Faculties) to Apostolic Nuncios, Internuncios and Delegates for the Places of Their Jurisdiction

(Cfr. Canon 268)

### Chapter I

### GENERAL FACULTIES

1. Faculty to visit either in person or through an ecclesiastic of tried virtue, prudence and learning, persons, places and things spoken of in Canons 344, 512, 1382—in particular cases, however, and by way of visitation—provided that the visitation seems necessary and urgent, that the Ordinary is unable or has neglected to hold the visitation, and that there is no time to have recourse to the Holy See.

2. Faculty to draw up either in person or through an ecclesiastic dignitary all acts or processes concerning the men who have been designated by the Holy See for the episcopal or archiépiscopal dignity, in accordance with the regulations passed for the individual nations.

3. Faculty to confer on properly qualified persons those benefices spoken of in Canon 1435, § 1, nn. 1 and 3, observing the rules which have been or will be ordained by the Apostolic Datary.

4. Faculty to absolve in the forum of conscience as well as in the external forum, as the diversity of cases may require, from all censures reserved by law either in a simple or special manner to the Roman Pontiff, imposing penances, etc., as the law requires.

5. Faculty to dispense men already ordained—so that they may be permitted to say Mass and obtain or retain ecclesiastical benefices—from all irregularities arising from crime or defect, provided no scandal is caused by the dispensation and the man is capable of performing the sacred rites, with the exception of the irregularity of bigamy-spoken of in Canon 984, n. 4; if the irregularity was caused by the crime of heresy or schism, the cleric shall before receiving the dis-

pensation make the abjuration in the hands of the one who absolves him.

6. Faculty to grant for reason of poverty to those who omitted the application of Mass due from foundations or from manual stipends permission to supply the Masses omitted in the past gradually, so that they, in so far as they are able, make complete satisfaction by saying, or having others say, a few Masses each month. The number of Masses to be supplied is to be equitably determined by the Apostolic Nuncio, Delegate, etc., himself, if the matter is public; by the confessor, if the matter is occult. The men guilty of such omissions are, moreover, to be informed that, if they obey the orders given them in the matter, and have not fully supplied the omissions when death approaches, and have no means to arrange for the saying of the Masses by others, the obligation is condoned and the Holy See will supply the Masses from the treasury of the Church. Faculty is also granted, if it seems expedient in some case for reason of very special circumstances, to reduce the Mass obligations assumed in the past to a certain number, imposing as many Masses as the petitioner is able to satisfy, provided he has not previously neglected Mass obligations and obtained a reduction ; the Holy Father supplies the Masses omitted from the treasury of the Church.

7. Faculty to arrange a discreet settlement in the internal forum with those who hold an ecclesiastical benefice—even one to which the care of souls is attached—and have neglected to say the Divine Ofiice, and therefore forfeited the right to the revenue of their benefice in proportion to their omissions (cfr. Canon 1475, §2). The portion of the income of the benefice which in the settlement is to be surrendered by the holder of the benefice, is to be applied to pious works at the discretion of the Apostolic Sec. If the holder's of benefices are so poor that a settlement for partial restitution of the forfeited income cannot be demanded, the Apostolic Nuncio, Delegate, etc., has power to condone it, but the obligation of almsgiving in proportion to the financial ability of the delinquent is to be imposed either by the Apostolic Nuncio (Delegate, etc.) or by the confessor. If others have a right to the forfeited portion of the income, these rights are not to he infringed by the settlement or condonation.

8. Faculty to condone in the internal forum the illegally acquired income of a benefice, acquisition of which itself was invalid through real simony *(simonia realis)* ; an appropriate salutary penance is to be imposed, together with alms according to the delinquent's means, and orders are to be given him to relinquish the benefice. If, however, there arc just and reasonable causes making the relinquishment of the benefice inadvisable (especially when there is question of a parish

and there are no qualified men to whom the parish can be entrusted), the Apostolic Nuncio, Delegate, etc., can validate the title to the benefice.

9. The faculty to absolve either in person or through other capable ecclesiastics persons who hold lands which were many years ago taken from the Church by the civil laws, and which they acquired by inheritance from their ancestors, or by purchase or other similar contract with former possessors of these lands; to entitle such persons to hold the property lawfully as their own and to dispose of it either by contract or by last will, imposing upon them for once only an appropriate alms of an amount to be determined at the discretion of the one absolving them and to be expended in favor of some church or pious work.

10. To dispense from the law of abstinence in particular cases on days when abstinence is prescribed, even on fast days and during Lent.

11. To allow clerics and religious, as individuals, for a reasonable cause the private anticipation of Matins and Lauds immediately after twelve o'clock noon any time during the year.

12. To commute, because of poor eyesight or other reasonable cause and for as long as the cause lasts, the obligation to recite the Divine Office into the daily recitation of the entire Rosary of the Blessed Virgin or other appropriate pious prayers, without however releasing the one who obtained the commutation from being present in choir if he has that obligation.

13. To dispense in urgent cases from the academic degrees necessary for the obtaining of certain benefices, which, by the charter of its foundation, require that the holder of the benefice have certain academic degrees, provided no prejudice to the rights of others is caused thereby.

14. To grant, in accordance with the rules of the Constitution 'Officiorum ac Munerum," the faculty to keep and read forbidden books and periodicals, under the clauses and limitations which seem necessary or useful in the individual cases, and which ought to be those which the Holy Office employs.

15. To commute or to dispense, considering the merits of the cases, all simple private vows, even those reserved to the Apostolic See, with the exception of those vows in which the rights of third parties would be injured by the dispensation.

1G. To dispense for a just cause from every oath, provided the rights of third parties are not injured thereby.

17. To remit or condone to the poor in the forum of conscience only some part or portion of goods illegitimately taken away or retained, whenever the owners arc uncertain and the cases occult; however, the rest of the goods, if any remain in the hands of the evil-

doers, or otherwise some other sum to be fixed in proportion to the ability to pay, shall be distributed among the poor of the place or among the pious works of the place, if this procedure is feasible.

18. To receive—or to delegate in individual cases another qualified ecclesiastic to receive—the denunciations concerning the crime of solicitation, observing in all things the form and tenor of the Instruction to be given by the Holy Office.

19. To prolong for a short space of time the faculties, indulgences and induits granted by the Holy See, which have expired without the petition for their extension having been duly sent to Holy See. The use of this faculty entails the obligation of having immediate recourse to the Holy See for the favor, or, if the petition has already been made, to petition an answer.

## Chapter II

## FACULTIES CONCERNING INDULGENCES

20. To grant six times a year, on the occasion of some solemnity, a plenary indulgence to all the faithful who are truly contrite and have confessed and received Holy Communion, have visited a church or public oratory, and prayed there for some time for the intentions of the Supreme Pontiff. The faithful who live in places where it is impossible or very difficult to go to Confession may be permitted to gain the aforesaid indulgences by substituting for the actual reception of the Sacraments some work of piety and firmly proposing with a contrite heart to confess their sins committed as soon as they can.

21. To grant three times a year on days to be determined by them, but not in the same place, the Papal Blessing according to the printed form inserted in these faculties, with a plenary indulgence to be gained by those who have with truly contrite hearts confessed their sins, received Holy Communion, assisted at the Blessing, and prayed for the propagation of the faith and the exaltation of the Holy Roman Church.

22. To grant a plenary indulgence, not perpetually but for a length of time to be fixed at their discretion, to all the faithful who with truly contrite hearts confess their sins and receive Holy Communion during the Forty Hours' Devotion, whenever this devotion is ordered to be held by the respective local Ordinaries, though for a good reason the formalities and ceremonies demanded by the Clementine Instruction for the conduct of the Forty Hours' are not observed in some points.

23. To grant a plenary indulgence to be gained in the act of their conversion (i.e., their reception into the Catholic Church) to converts

who return to the Catholic Church from heresy. The faculty says "primo conversis" (i.e., persons who never were Catholics).

24. To grant in particular cases or temporarily a plenary indulgence on the occasion of a sacred mission, observing the customarj· rules (i.e., Confession, Holy Communion, visit to a church, and prayer for the intentions of the Holy Father).

25. To declare one altar in every church of the territory of their jurisdiction privileged every day of the year, in accordance with the precept of Canon 916.

26. To grant during the term of their office two hundred days' indulgence to all present at the sacred functions conducted by them.

27. To erect the Stations of the Way of the Cross and attach the indulgences to them, and to establish the pious Sodalities of the Rosary, of Our Lady of Mount Carmel and the Seven Dolors, with the power to grant this faculty at their discretion to ecclesiastics for use in places where there are no houses of religious who by Apostolic concession have the privilege to bless the Stations or establish the confraternities or sodalities. Under the same condition, they have power to grant to ecclesiastics the faculty to bless and impose the scapulars of the aforesaid sodalities.

28. To grant that the indulgences spoken of in the preceding articles may be applicable also to the poor souls in purgatory by way of suffrage.

## Chapter III

## FACULTIES CONCERNING MARRIAGE

29. To dispense with the impedient impediments spoken of in Chapter III, Title VII, Book III of the Code, provided the precepts therein contained are observed to the letter, especially with reference to dispensations from mixed religion, and the Holy Office is informed each year before Easter of the number and other circumstances of the dispensations from mixed religion granted during the past year.

30. To dispense for .... (the number of cases is not given in the general formula) for a grave reason from all diriment impediments of ecclesiastical law, either public or occult, of minor or major degree, with the exception of those arising from affinity in the direct line by consummated marriage, and those from sacred orders and solemn religious profession.

As to the diriment impediment of disparity of cult, it shall not be lawful to grant a dispensation except under the conditions laid down in Canons 1060-1064, and. in the case of marriages of Catholics with Hebrews and Mohammedans, it must be certain that the unbaptized party is free to marry, and the danger of polygamous marriage is

avoided, that there is no danger of the circumcision of the children, and that, if a civil ceremony has to be performed (because the laws of the country demand it), it will be merely a civil ceremony without the invocation of Mohammed or other kinds of superstition.

The couple to be married should, if possible, make an offering according to their means, which the Apostolic Delegate himself shall forward to the Holy Office, if there is question of the disparity of cult, or to the Sacred Congregation of the Sacraments, if there is question of other impediments.

31. To grant the *sanatio in radice* for .... cases (the number of cases is not given in the general formula) for marriages contracted invalidly for reason of a diriment impediment, spoken of in No. 30 of these faculties, whenever it is morally speaking impossible to make the renewal of consent in the ordinary way; the party who knows of the impediment is to be informed of the effect of the *sanatio*. The rescript of the *sanatio* is to be carefully preserved in the episcopal Curia in order that at any time and in any event the validity of the marriage and the legitimation of the offspring can be proved.

However, if marriage was rendered invalid for lack of the prescribed form, the *sanatio* should not be granted except in the case in which the other party refuses to renew the consent in the prescribed form, or, if one were to ask the other party to renew the consent in the prescribed form great evil or danger would threaten the party making such request.

If marriage was invalid for lack of the prescribed form in marriages with a baptized non-Catholic or an unbaptized person, and the non-Catholic party cannot be induced to renew the consent according to the laws of the Church, the *sanatio* shall not be granted unless the Catholic party assumes the obligations to procure—as far as lies in his power—the conversion of the other party and to educate the offspring in the Catholic faith; the Catholic party is to be absolved from censures, if he contracted marriage before a non-Catholic minister and is to be reminded of the grave crime committed.

## Chapter IV

## FACULTIES CONCERNING OTHER SACRAMENTS AND SACRED RITES

32. To delegate simple priests of tried virtue and knowledge for the administration of the Sacrament of Confirmation in those regions only in which there are no bishops, observing the precepts of Canons 781, § 1, 782, § 4, 784; the delegation is to be given for some specified length of time.

33. To permit in each individual case or for a certain length of time one Low Mass in public oratories on Holy Thursday.

34. To permit the infirm priests during their illness, or in their old age, the privilege of the private oratory in which they may say Mass according to canonical regulations.

35. To permit the priests of the territory of their jurisdiction the use of artificial hair (wig) during the celebration of Mass, provided there is necessity for its use.

36. To concede in particular cases the induit to say Mass outside a church or oratory and for a reasonable cause to erect an altar in the open air, in accordance with Canon 822, § 4.

37. To permit priests making a voyage either on the ocean or on rivers to say Mass on the boat on a portable altar, provided the place in which Holy Mass is celebrated is not unbecoming oi' improper, and there is no danger of spilling the Precious Blood.

38. To reconsecrate either in person or through simple priests delegated by him fixed as well as portable altars which, for reason of some defect, have lost their original consecration, with the obligation to observe in all points the Instruction of the Sacred Congregation of Rites in reference to the sacred rites prescribed in the shorter form of reconsecration of altars.

39. To permit for a reasonable cause in particular cases or temporarily the saying of Mass after three o'clock in the morning.

40. To permit temporarily Requiem Masses to be said twice or three times a week in some church, with the consent of the Ordinary, on feasts of the rank of doubles, with the exception of doubles of the first and second class, Sundays and other feasts of precept, and privileged ferias, vigils and octaves.

41. To grant to priests of both secular and the religious clergy who suffer from weakness of eyesight, or from other infirmity, faculty to say the Votive Mass of the Blessed Virgin or of the Dead, obliging them to employ, if necessary, the assistance of another priest, and provided that, if they are pastors, they attend to the obligation of explaining the Gospel to the people on Sundays and holydays of obligation. Furthermore, to concede to priests who are entirely blind the faculty to say Mass, obliging them in every case to employ the assistance of another priest or deacon, and provided an experiment has been made to ascertain whether they can say Mass, and the priests have demonstrated their ability.

42. To grant to persons sick in bed without expectation of carlv recovery permission to receive before the expiration of one month of sickness Holy Communion once a week without keeping the Eucharistic fast—i.e., after having taken medicine or some liquid food (cfr.

Canon 858, $2). To grant to the sick who are not confined to bed but who suffer from an illness which, in the judgment of the physician, does not allow them to keep the fast without danger, permission to receive Holy Communion once a week without observing the Eucharistic fast, as said above.

43. To permit in individual cases that in churches in which the feast of some Saint mentioned in the Roman Martyrology or otherwise approved by the Holy See is solemnly celebrated, High Masses and Low Masses may be celebrated differing from the Office of the Day, provided the Office of the Day is not a double or a Sunday of the first and second class, or the Vigil of Christmas, or the Vigil of Pentecost, or the Octave Day of Christmas, the Epiphany or Corpus Christi, or Ash Wednesday, or any day of Holy Week.

44. To delegate to any priest in places subject to their jurisdiction in particular cases or temporarily the faculty to consecrate according to the formula of the *Pontificale Romanum* chalices, patens and altarstones, using for this purpose the holy oils blessed by a Catholic bishop.

45. To bless church bells and consecrate churches provided they have advised the local Ordinary of the impending ceremony and he has not objected.

## Chapter V

## FACULTIES CONCERNING RELIGIOUS

46. To take cognizance in extraordinary cases and in cases of urgent necessity of the state of some house of any religious organization; to lend their counsel and cooperation to superiors for the purpose of applying appropriate remedies to abuses and making the religious return to the perfection of their state, but they must as soon as possible inform the Apostolic See, if they deem it necessary to decree something new for the utility of cloistered communities.

47. To dispense for a just cause and at the request of the community from the lack of the dowry required for Sisters or nuns.

48. To concede in particular cases or temporarily faculty to the diocesan Ordinaries to place religious in charge of parishes, if secular priests are wanting, but this is to be done with the consent of the superiors of the religious and under the condition that at least two other religious live with the pastor; in all other points the laws of the Sacred Canons are to be observed.

49. To permit nuns in case of sickness and for other just reasons to remain outside the enclosure for a length of time to be specified by them; however, the nuns must be always accompanied and assisted by their blood relations or relations by marriage *(affines)* or some honorable woman, must lead a religious life in the (private) house or else-

where, and keep aloof from association with men, as behooves virgins consecrated to God. The precepts of Canon G39 apply in this case.

50. To dispense religious of either sex in the forum of conscience only from returning to the religious organization and to permit them to remain in the world, whenever they have obtained an invalid declaration of nullity of their vows, provided the nullity is occult; however, the vow of perpetual chastity remains, and the other vows are to be observed as to their essentials, until they have obtained a special dispensation from the Holy See in the matter. If those religious are priests, they must be ordered to wear the garb of the secular priests.

## Chapter VI

### FACULTIES FOR PERSONAL USE BY THE NUNCIOS OR DELEGATE

51. To recite the Divine Office and to celebrate Mass according to the Roman Calendar of the clergy of the City of Rome, and to concede that faculty to the priests living with and subject to them.

52. To reserve the Blessed Sacrament in the oratory of their permanent residences under condition that a lamp burns continually before the tabernacle, that the key of this tabernacle is carefully guarded, and the other regulations of the Sacred Liturgy are perfectly observed. The oratory shall, by concession of the Roman Pontiff, be considered a public oratory.

53. To administer the Sacrament of Confirmation in the whole district of their jurisdiction and also on the ocean on their voyage to and on return from the place of their jurisdiction.

54. To hear sacramental confessions of all the faithful in the place of their jurisdiction and on the ocean trips spoken of in the preceding paragraph.

55. To gain for themselves the indulgences which, in virtue of his faculties, they desire to grant to others.

Note: The above faculties contained in Chapters II and III and those enumerated in Chapter I, nn. 1, 3 and 18, Chapter IV, nn. 32 and 38, Chapter V, n. 4G, Chapter VI, nn. 53, 54 and 55, are conceded to those only who have episcopal consecration, and arc therefore not to be considered granted to those (especially the Auditor and Secretary) who, during the vacancy of a Nunciature or a Delegation, are entrusted with the conduct of the business, unless this is explicitly stated, even though the commission to attend to the office is given to them with the ordinary faculties.

The representative of the Supreme Pontiff shall be careful not to grant those induits which he can concede temporarily for more than five or ten Tears.

# APPENDIX IV

## Additional Faculties

(1) During the vacancy of a diocese within the territory of the Apostolic Delegate, he may at the request of the administrator of the diocese concede all those things which the bishop can do by his ordinary jurisdiction.

(2) Whenever there is urgent necessity and evident advantage and there is danger in delay, he may permit the alienation of ecclesiastical goods or pious causes to the value of sixty thousand francs for European countries, up to one hundred thousand francs for countries outside of Europe.

(3) To permit illegitimates to enter the seminary, provided there is no question of adulterous or sacrilegious offspring, and that they have the other necessary qualifications to enter the seminary. The obligation remains to have recourse to the Holy See for their ordination.

(4) In places where for lack of pastors or because of too great distances the faithful are attended to by missionaries, the Apostolic Delegate may appoint the superior of the mission as pastor, the other missionaries as assistants in order that the pastor and the assistants may exercise for the benefit of the faithful resident in those places or traveling in that mission all functions which pastors and assistants exercise in their own parishes.

He may, moreover, grant the superior of the mission for his territory the faculties which vicars general possess and which are enumerated in Canons 1043-1057 of the Code and which are there given to the Ordinaries for marriages. Furthermore, he may grant power to confirm according to n. 32 of his (the Delegate's) Faculties.

The superior of the mission shall inform the local Ordinary of the powers granted to him by the Apostolic Delegate and request him to designate in so far as it can be done the limits of the mission. After the completion of his mission, the superior shall give to the Ordinary a report of the sacraments administered in the mission in the same manner as the pastor is bound to do for his parish.

Finally, the Apostolic Delegate may in particular cases subdelegate these faculties to the bishops of the territory of his Delegation (June 1G, 1920; *Monitore Ecclesiastico,* 1922, 200.)

(5) By Decree of the Sacred Congregation for the Oriental Church, December 6, 1928, the Apostolic Delegates are authorized to permit the transition from the Latin to an Oriental Rite, and vice versa, to the Catholic laity, not however to the priests (Acia *Ap. Sedis,* XX, 41G).

(6) The Apostolic Delegate to the United States was authorized by rescript, first granted June 20, 1924, for five years, and renewed for another five years, November 13, 1929, to reduce the Masses *pro populo* in poor parishes to those Masses enumerated in Canon 30G *(Ecclesiastical Review,* September, 1932, p. 302).

# APPENDIX V

## Relation of Missionaries of Religious Communities Towards the Vicar or Prefect Apostolic

(Cfr. Canons 295-298)

When the Holy Sec commits a certain mission district to a Religious Order or Congregation, it does not leave that territory entirely in the hands of the religious but reserves to itself the government of the mission. The Holy See appoints the Ecclesiastical Superior of the mission, and, though usually the Holy See asks the religious organization to propose men whom the Holy See may appoint as Vicars, Prefects, or Superiors of the missions, the man appointed by the Holy Sec docs not govern the mission in the name and by the authority of the religious organization but by the authority of the Holy See. He is answerable, not to the organization for the government of the mission, but to the Holy See, and in the management of the mission he must not do the wishes of the Superiors of the organization but be guided by what the Church desires.

Harmony between the Ecclesiastical Superior of the mission and the religious organization is imperative, and the religious appointed by the Holy Sec should remain intimately united with his religious community and be welcome in their midst, so that all inay with one heart and soul work for the welfare of the mission.

All missionary activities in the district are subject to the authority of the Vicar or Prefect: he authorizes the establishment of missions or stations, schools of all kinds, orphanages, hospitals, dispensaries, and all other works of charity; he authorizes the building of chapels and churches, the system of instruction, etc., of catechumens. lie has control over the missionaries, appoints superiors or rectors of stations or missions, and appoints the men to serve here or there. He has control over the money and resources of the mission, whether the religious get the money from the missionary societies of the Propagation of the Faith. Holy Infancy, St. Peter Claver for the Native Clergy, etc., or in any other way from the faithful or from the religious organization to which the mission district is entrusted, or from the government or in any other way through charity and humanity. He

administers freely these and all other movable and immovable goods with his council according to the necessity and utility of the mission, excepting only those goods which have been given for a particularly defined purpose. From this it does not follow that the Ecclesiastical Superior may at will start all kinds of works and then demand of the religious organization to provide for the expenditures and carry the debts. If he intends to undertake some work for which funds are lacking or men, he must arrange matters with the Superiors of the religious organization or, as the case may be, with the Sacred Congregation of the Propaganda.

Special agreements may be drawn up between the Ecclesiastical Superior and the Superiors of the religious organizations, and these are usually submitted to the Sacred Congregation of the Propaganda.

The Ecclesiastical Superior must consult his council, as demanded by Canon 302 of the Code, and he should value the suggestions and advice of the Religious Superior of the missionaries. Though the Religious Superior has merely the control over the religious discipline of the members of the organization and cannot appoint the men to the charge of the individual missions or stations or the men who are to serve the missions in the various places, the Ecclesiastical Superior should nevertheless consult the Religious Superior as to the positions and duties to be entrusted to the men. If the Religious Superior thinks that some changes should be made in the men or work, he may explain the matter to the Ecclesiastical Superior; if they disagree, the will of the Ecclesiastical Superior prevails. In very urgent emergencies both the Ecclesiastical Superior and the Religious Superior may without each other's consent remove a missionary from a place or office; neither the one nor the other is bound to make known his reason for so acting, but recourse may be had to the Holy See as provided by Canon 454, §5 (Sacred Congregation of the Propagation of the Faith, December 8, 1929; *Acta Ap. Sedis,* XXII, 111-115).

# APPENDIX VI

## Manner of Proposing Candidates for the Episcopacy

### (Cfr. Canon 330)

### I. *In the United States*

1. Every two years at the beginning of Lent each bishop shall indicate to his archbishop the names of one or more priests whom he believes worthy and qualified for the episcopacy. Priests of another diocese may be proposed, but there is the grave obligation that those proposed be known to the proponent personally from long-standing acquaintance. Besides, the name, age, birthplace, actual place of residence and the office each holds at the time shall be indicated.

2. Before they decide whom to propose, both the archbishops and bishops shall ask the diocesan consultors and the irremovable pastors, in the manner given below, to indicate some priest whom, in preference to all others, they believe before God to be worthy and qualified to have charge over the Christian people in some diocese.

(a) The request shall be made to the consultors and pastors individually, not in a body, and under a grave precept of secrecy and with the obligation to destroy the letters, if there should be some correspondence in the matter.

(ô) The bishops shall not reveal to anyone this consultation except perhaps in the meeting of the bishops spoken of below.

3. For both the proposing of candidates and for ascertaining the qualifications of some one, the bishops may consult also other prudent men even from among the religious clergy, but the rules given above under article 2, *a* and *b*, must be faithfully observed.

4. What the bishops have learned through the inquiry spoken of in articles 2 and 3, they may make use of, but they are not obliged to do so, having to give an account thereof to God alone.

The bishops shall make known to absolutely nobody but the archbishop the names of one or more priests whom they propose according to article 1.

5. When the archbishop has received the names from his suffragan bishops, he shall add his own. Then he shall make a list of all proposed in alphabetical order without indicating the names of the proponents.

This list he shall send to all the suffragan bishops in order that they may make proper investigations concerning the qualifications of those of whom they have no personal and sure knowledge.

G. The investigations shall be made with even greater precaution of secrecy than was prescribed under n. 3. The bishops may be silent concerning the reason for the investigations and conceal it with caution and prudence. If they fear that the matter may become public, they must refrain from further investigations.

7. After Easter, on a day and at a place appointed by the archbishop, all the suffragan bishops together with the archbishop shall meet for the purpose of choosing the men who are to be proposed to the Holy See for the episcopacy. They should meet without any solemnity, as though for a friendly gathering, in order that all attention especially of the newspapers and magazines and all curiosity may be avoided.

8. In the meeting they shall implore the divine assistance, and each one, including the archbishop, shall take the oath on the Holy Gospels to keep the secret in order that the bond by which all are bound may be all the more sacred. Then the rules for the election shall be read.

9. Then one of the bishops present shall be chosen as secretary.

10. After this, there shall be a moderate discussion in order that among so many names presented the more worthy and capable men be selected. The very gravity of the affair demands that they discuss and act as though Christ Himself was present and before their eyes, that all human consideration be set aside, saving discretion and charity, and that they consider only the supreme welfare of the Church, the glory of God and the w'clfare of souls.

11. The candidates should be of mature but not too advanced age, endowed with prudence in the transaction of business exhibited in the exercise of the positions they have occupied, absolutely sane and superior knowledge combined with due devotion towards the Apostolic Sec, and most of all respectability of life and piety. Attention is to be paid also to the ability of the candidate in the temporal administration of goods, to the condition of his family, to his natural disposition and his health. In a word, they must judge whether he has all those qualifications which arc demanded of an excellent pastor in order that lie may be able to govern the Lord's flock to their profit and edification.

12. When the archbishop sees fit to close the discussion, the decision on the men to be proposed is to be made in the following manner:

(d) those men who by consent of all the bishops were in the course of the discussion dropped from the list for one reason or another shall not be voted on. All others to be proposed to the Holy See must be proposed by vote even though they are acceptable to all;

(b) the archbishops and all the bishops shall each be given three pebbles for each candidate, one white, one black, the third of some other color. The first is a sign of approval, the second of rejection, the third of abstention from expressing an opinion;

(c) the voting for each candidate is to be done by secret vote, beginning with the first on the alphabetical list;

(d) each prelate, beginning with the archbishop, shall secretly deposit one of the three pebbles in an urn or box, and there is a grave obligation in conscience to vote as one secs fit before God; the other two pebbles are secretly to be put into another urn;

*(e)* after all have voted, the archbishop together with the bishop secretary shall before all the voters count the pebbles and note their color. A record in writing is to be made of the result.

13. If after this the bishops desire, or anyone of them requests it, a new vote shall be taken to decide which among those who received all the votes, or an equal number of votes, is to be preferred. For this purpose each prelate shall write the name of the one to be preferred on a slip of paper and put it into the urn. The slips shall be counted as stated in no. 12 (e).

14. Although the Holy Father reserves to himself the right, when a vacancy of a diocese or archdiocese occurs, to request through the Apostolic Delegate information from the bishops or archbishops in order that he may choose from among those proposed the man best qualified for the particular diocese, the bishops may—and it is desirable that in their meeting they should—indicate at least in a general way for what kind of a diocese the various men proposed would be best qualified, for example, whether for a small and well-ordered diocese, or for a more important one, or one in which many things have still to be done and created, for a diocese with a mild climate and low altitude, or for some other, etc.

15. The bishop who acts as secretary shall diligently make note of what is said during the discussion by each bishop concerning each candidate, the conclusion arrived at in the discussion, the outcome of the voting or votings, and especially what was said under the regulation of n. 14.

1G. Before the bishops leave the meeting, the secretary shall road the report concerning the names proposed, the qualifications of the candidates, and the votes they received in order that the report may be approved by all.

17. A copy of the acts signed by the archbishop, the bishop secretary and the other bishops is to be cautiously forwarded to the Sacred Congregation through the Apostolic Delegate. The original acts are to be kept in the archbishop's archives in the section reserved for the

most secret documents of the Holy Office; they are to be destroyed alter one year or even sooner if there is danger of the violation of the secret.

IS. The bishops may on the occasion of the meeting or when some diocese becomes vacant, especially any of the more important ones, write to the Sacred Congregation or to the Holy Father himself, expressing their mind concerning the qualifications of the men either in themselves or with reference to a particular vacant diocese (Sacred Consistorial Congregation, July 25, 1916; Acta *Ap. Sedis,* VIII, 400).

### II. *In Mexico, Canada, etc.*

For the Republic of Mexico the Holy Sec extends the regulations made for Canada and Newfoundland concerning the proposing of priests to the Holy See for vacant bishoprics. Once in three or five years, at the beginning of Lent, the bishops of each ecclesiastical province should indicate to their archbishop the names of priests whom they deem worthy to be promoted to the episcopacy. They need not necessarily be priests of the bishop's own diocese, but it is prescribed *sub gravi* that each bishop propose only those whom he knows personally and for a long time. The archbishop adds his own candidates, draws up an alphabetical list of all names proposed without indicating who proposed them, and sends the list to all the bishops of the province in order that they may gather information about the men on the list who arc not known to them. Absolute secrecy is prescribed in the whole matter.

After Easter, on a day and at a place appointed by the archbishop, the bishops meet and the meeting and its purpose should be concealed from the public. At the beginning of the meeting all present, archbishop and bishops, take the oath to observe secrecy. One of the bishops is chosen as secretary of the meeting. Then follows the discussion on the candidates. Those whom all the bishops agree to drop from the list arc to be struck off. About all others a vote is taken in alphabetical order. The voting is done by pebbles, white, black, and some other color. White means approval, black rejection from the list, the other color refraining from vote. One pebble is put into one box, the other two are disposed of by being dropped into another box in such manner that nobody can see what pebbles each put into the boxes. Every candidate is voted on, and the archbishop with the secretary inspects and counts the various kinds of pebbles publicly before all, the secretary writing down the results. If any one of the bishops asks that a vote be taken on the one who should be preferred among the approved ones, each voter is to write the name of the one he prefers on a slip of paper and put it into the box.

The secretary makes a report of all that was said and done in the meeting, and it is read and signed by all. A copy is to be sent to the Holy See through the Apostolic Delegate; the original acts are to be placed in the secret archives of the archdiocese, and are to be destroyed after one year or sooner, if there is danger of violation of the secret (Sacred Consistorial Congregation, April 30, 1921; *Acta Ap. Sedis,* XIII, 379). The same procedure is prescribed every three years for Poland (August 20, 1921; *Acta Ap. Sedis,* XIII, 430).

# APPENDIX VII

## Decree Concerning· Certain Privileges, Insignia and Functions of Bishops

(Cfr. Canons 337, 347, 352 and 370, § 2)

### I. *Concerning All Bishops*

1. May the biretta of bishops be ornamented with a red tassel? Answer; No.

2. May any bishop have the cappa or other episcopal garb made of silk? *Answer:* No, they should be of wooL Only bishops of the Papal household may wear episcopal dress made of silk.

3. During the seasons of penance, and in functions for the dead, may the cassock, mantelletum, mozetta and biretta of bishops in functions be purple or must they be black? *Answer:* At Rome, except during the vacancy of the Holy See, they must be purple. Outside the City they should preferably be black, except the biretta and skull-cap which must always be purple.

4. At Confirmation and in processions, especially where such is the custom, may the bishop use stole, mitre and crozier with his episcopal garments? *Ansiver:* No; the *Pontificale Romanum* (off. edition, August 3, 1888) and the *Cæremoniale Episcoporum* (off. edition, August 21, 1886) are to be follow'ed.

5. Is it lawful to use a silver mitre with silver ribbons, where such is the custom, in place of the plain silk or linen mitre with red ribbon? *Answer:* No; the mitre of silver thread is proper to the Roman Pontiff in seasons of penance and at funeral functions. Nor is the mitre of white silk in place of the plain linen mitre allowed except to Cardinals and Prothonotaries Apostolic *ad instar.*

### II. *Concerning the Bishop in His Own Diocese*

1. In presence of a Cardinal who is not a Legate of the Supreme Pontiff should the bishop of the diocese wear the mozetta or rather the mantelletum? *Answer:* The *Cwrcmoniale Episcoporum* is to be followed (lib. I, cap. IV, n. 7).

2. In the presence of a Cardinal or the Metropolitan is the bishop of the diocese to wear the cappa folded up and abstain from private blessings? *Answer:* The cappa should be folded up, but he may unfold it and employ a train bearer in those functions which he performs immediately with or towards the Cardinal or Metropolitan; he must abstain from private blessings according to the *Cceremoniale Episcoporum* (lib. I, cap. IV).

3. After a Requiem Mass, at which he was present in choir vested with the mozetta, may the bishop of the diocese give the Absolution with amice, stole and cope, after the celebrant retires from the altar? Answer: Yes, he may.

4. May two Canons vested with whatever insignia they have assist the bishop at a Low Mass (either a private or Ordination Mass), where it is customary, or may they wear only the surplice over the rochet, if they have a right to wear the rochet? *Answer:* They may not use other insignia than the rochet, if its use is conceded to them.

### III. *Concerning the Bishop Outside His Own Diocese*

1. May the bishop, where it is the custom, wear the mozetta over the rochet instead of the mantelletum? *Answer:* At home it is proper to wear the mozetta, if the bishop of the diocese has invited him or his consent can be presumed; outside the house he may not wear the mozetta, according to the *Cecremoniale Episcoporum* and other decrees, unless with the mozetta he also wears the mantelletum.

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2. Whether and when is it lawful for a visiting bishop to wear the cappa, in the presence or absence of the bishop of the diocese? Answer; He may use the cappa when he lawfully holds episcopal functions and has received permission from the local bishop to use the throne. If the coadjutor or auxiliary bishop pontificates, he may wear the cappa with the permission of the Ordinary in those functions in which the liturgical laws allow it, which laws have been explained in various decisions of the Sacred Congregation of Rites (cfr. nn. 2010, 2011 and -1023 of the Official Collection of Decrees of the Sacred Congregation of Rites).

3. Outside his diocese, how is the bishop to hold the crozier? *Answer:* The curved part of the crozier is to be turned toward the people or the object which he faces.

4. When pontificating in the presence of the bishop of the diocese, who allows the visiting bishop the use of the throne, may a visiting bishop use the throne of the local bishop on the Gospel side? *Answer:* The pontificating bishop uses the throne on the Gospel side; the Metropolitan and the Apostolic Delegate may assist on another throne

on the Epistle side. The local bishop cannot assist at the Mass of a visiting bishop on a throne, when he concedes the use of the throne to the visiting bishop. If, however, he wishes the visiting bishop merely to celebrate *ad faldistoriiun,* he may occupy his throne.

5. May the bishop of the diocese assist on his own throne, while the pontificating Metropolitan uses a throne on the Epistle side? *Answer:* No.

6. 11' the Metropolitan or a visiting bishop pontificates at the throne of the local bishop :

(a) Is the seventh candle to be lighted? *Answer:* No.

(b) May there be two assistant deacons in their vestments besides the deacon, sub-deacon and *presbyter assistens? Answer:* Yes.

7. If the local bishop assists on his own throne while the visiting bishop pontificates *ad faldistorium* and a sermon is given after the Gospel :

(a) Who is the bishop to whom the preacher must go for the blessing before his sermon?

(b) Before which of the two bishops is the deacon at the end of the sermon to sing or recite the *Confiteor?*

(c) Which is to give the solemn blessing?

*Answer:* In all these points the *Ccercmoniale Episcoporum* is to be followed, and the blessing of the preacher is likewise reserved to the local bishop *(Ccercmoniale Episcoporum,* lib. II, cap. IX, nn. 5-7).

8. If the sermon is given by another bishop, while the local bishop either assists on the throne or pontificates, who is to announce the indulgences after the confession? *Answer:* The *Cceremoniale* is to be followed (lib. IT, cap. VIII, n. 51).

9. If the local bishop assists in the choir (the stalls of the canons in the sanctuary) or is absent, while another bishop pontificates using the throne of the bishop, may the solemn blessing after the sermon be given ? *Answer:* The blessing which carries with it the concession of indulgences is a regular function not to be omitted, but the visiting bishop cannot give that indulgence, nor can the local bishop delegate him. The local Ordinary, who is merely present in the choir, cannot give the benediction because it cannot be separated from the celebration.

## IV. *Concerning Several Bishops Present at Functions*

1. Are the assisting bishops to be incensed at a Solemn Pontifical Mass before the assistant priest and the ministers of the Mass? *Answer:* The *Ccercmoniale Episcoporum* is to be followed.

2. Is the custom lawfid to have processions on solemn occasions in which the bishops present all wear stole, pluviale, mitre and cro-

zier? *Answer:* There is no objection to such processions but the bishops should not wear the stole nor carry the crozier.

3. In these processions:

(a) In what order shall the bishop who leads the procession and the other bishops walk? *Answer:* The usual order of processions is to be observed.

(b) Has each of the bishops assisting the right to, or may he, be accompanied by two canons as assistants? *Answer: No.*

4. During a pilgrimage or other festive occasion is it permissible that all the bishops together sing the words of the solemn benediction over the people? *Answer:* No, even though there is an ancient custom; and if such a custom exists, it should be eliminated prudently.

## V. *Concerning the Local Bishop and the Vicar-General Who is a Titular Auxiliary Bishop*

1. Can the bishop of the diocese allow his vicar-general who is a titular auxiliary bishop to wear the mozetta only in place of the mantelletum? *Answer:* He cannot.

2. May such auxiliary bishop and vicar-general bless the people both inside the church and outside. *Answer:* Yes; if he holds the office of vicar-general, he may bless the people by his own right without a special concession of the bishop, according to Canon 370, § 2 (cfr. Canons 349, § 1, and 239, § 1, n. 12).

3. In view of Canon 337, § 3, does the Decree of the Sacred Congregation of Rites, n. 4023 (June 12, J899), concerning the right of the bishop of the diocese to concede to another bishop the use of his throne remain in force? *Answer: Yes,* that Decree remains in force. The Decree referred to rules that the bishop may cede his throne to another bishop, not, however, to a coadjutor or auxiliary bishop of his own diocese, even though he be vicar-general or a canon of his cathedral. Λ Cardinal who is Ordinary of a diocese should not cede his throne to another bishop except a Cardinal (Decree of the Sacred Congregation of Rites, November 2G, 1919; *Acta Ap, Sedis,* XII, 177).

# APPENDIX VIII

## Instruction to the Heads of Clerical Religious Organizations on the Education of Their Candidates for the Priesthood and on the Scrutiny before Reception of Orders

(Cfr. Canon 589)

The Sacred Congregation of Religious opens its Instruction with a fervent appreciation of the work done by the religious both for the Catholic people and in the heathen missions, quoting from Pope Pius Xi's Apostolic Epistle, "Unigenitus Dei Filius," of March 19, 1924, and from his Radio Address of February 12, 1931. If the clerical religious bodies are to continue to do great things for the Church and the salvation of souls, it will be necessary' for them to be very cautious in admitting candidates to their ranks, lest men without a true vocation enter the priesthood and spoil and destroy the good work of those who are faithful to their high calling. On December 27, 1930, the Sacred Congregation of the Sacraments issued an Instruction to all local Ordinaries on the precautions to be taken against admitting to Sacred Orders seminarians who never had or who have lost their vocation to the holy priesthood.1 The Sacred Congregation of the Religious now desires the Superiors of religious organizations to take similar precautions against admitting unworthy candidates of their communities to Sacred Orders.

In the first place, the Superiors are to be very careful in admitting young men to the novitiate, and must investigate thoroughly the life and character of those who apply for admission and their other qualifications and the spirit in which they enter the community. Ordinarily they may' not receive candidates into the novitiate before they have finished the high school course, and if at times there are serious reasons why a candidate should be received before the end of that course, he must complete it after the novitiate before he is admitted to the course in philosophy.

After the novitiate the young men must be placed in houses where the religious life is observed perfectly and where philosophy and theology can bo studied properly. The conduct of the young men

i Cfr. below', Appendix XIV.

is to be watched with great care, and instruction in the spiritual life and practice of religious perfection must go hand in hand with their studies.

As sanctity of life and a profound knowledge of Christian philosophy and theology are demanded of the priest, the young men must be steadily trained both in the spiritual life and in knowledge. The prescribed courses of studies may not be abbreviated; even when permission is granted to ordain the men after the third year of theology, they must stay in the house of studies and finish the course.

In the first years of the exercise of the sacred ministry by the young priests, the Religious Superiors must see that the men are not left to themselves but that they work and study under proper supervision. The yearly examination for the first five years demanded by Canon 590 is to remind the young priests of the obligation to endeavor to perfect themselves in knowledge. A statement whether those examinations were held and for what reasons exemptions were granted, if any, is to be made in the Quinquennial Report of the Religious Superiors to the Sacred Congregation. The Superior's will be able to fulfill their obligations towards the young men more easily if they choose for the task of educating them men who excel in the practice of prudence, charity and piety. If the spiritual director and the professors give the young men a living example of religious discipline and priestly virtues, it will help much more than words to form their character in the right direction.

Just as the bishop has the obligation to ordain only those of his subjects who are in every way worthy, the Religious Superiors who present candidates for ordination have the obligation to present only those whom they know to be qualified and who are animated by the proper spirit in seeking the priesthood. Though the bishop has the right to investigate, independently of the Religious Superiors, the life and character and other qualifications of the religious presented to him for ordination, still he may abide by the judgment of the Superiors, and the Church puts the full responsibility for the candidates on the Religious Superiors.

In all religious organizations and societies the novices, before they are admitted to temporary vows, must present to their Superior a written petition in which they expressly declare that they believe they have a vocation for the religious and clerical state, which petition and declaration is to be preserved in the archives. Before the Superiors admit the young men to Orders, they must inquire into the character and life of the men and their progress in studies and in religious life. To be more secure in their judgment, they must ask the opinion of the spiritual director and of others who because of their contact with

the students may know their character and dispositions. A document containing the fact of the investigation and the opinion of the men consulted must be drawn up and preserved in the archives. Either the Superior or another man in whom the students have confidence must ask them whether they freely and with full knowledge desire to receive Orders in the religious state.

As to Major Orders, the Superiors must know that the religious cannot be admitted to these before they have taken perpetual vows, either solemn or simple. In those religious organizations in which no perpetual vows are taken, the Superiors are strictly forbidden to present the young men for Major Orders before they have completed three years of temporary profession. In Societies without vows, candidates cannot receive Major Orders until after their perpetual or final reception into the Society, if there is such a reception—in others not until after three years from the reception at the end of the novitiate.

Before the young men are presented for the subdiaconate, the Superior must institute a new investigation and compare it with that which was made before the first profession and which is preserved in the archives. If this second investigation is in all points satisfactory, the Superior may present them for the subdiaconate, provided they take the oath given below.

In all religious organizations and societies the candidates for the subdiaconate must take the oath before the Superior and sign it with their own hand. In Religious Orders with solemn vows this oath is to be taken before solemn profession. The oath is as follows:

"Ego subsignatus N'. N., alumnus Ordinis vel Congregationis N. N., cum petitionem Superioribus exhibuerim pro recipiendo subdiaconatus ordine, diligenter re perpensa coram Deo, iuramento interposito, testificor: (1) Nulla me coactione, seu vi, aut nullo impelli timore in recipiendo eodem sacro ordine, sed ipsum sponte exoptare, ac plena liberaque voluntate eumdem cum adnexis oneribus amplecti velle. (2) Fateor mihi plene esse cognita cuncta onera ex eodem sacro ordine dimanantia, quæ sponte amplector, ac Deo opitulante propono me toto vitro curriculo diligenter servare. (3) Quro castitatis voto ac coelibatus lege præcipiuntur, clare me perspicere testor, eaque integre servare usque ad extremum vitæ, Deo adiuvante, firmiter statuo. (4) Denique sincera fide spondeo iugiter me fore, ad normam sacrorum canonum, obsequentissime obtemperaturum iis omnibus quæ mihi a Prrepositis, iuxta Ecclesia) disciplinam, præcipientur, paratus virtutum exempla, tum opere, cum sermone, aliis præbere, adeo ut tanti officii susceptione retributionem a Deo promissam accipere merear. Sic testor ac iuro,

super hæc Sancta Dei Evangelia, quæ manu mea tango." Place and date and signature of the one taking the oath are to be added (Sacred Congregation of Religious, December 1, 1931; *Acta Ap. Sedis,* XXIV, 74Γ-81).

In the dimissorials (if the religious organization has the right to issue them) or otherwise in the testimonials, the Superiors must state that all the requirements specified in this Instruction have been fulfilled.

As to the diaconate and priesthood, though it is not prescribed to make the same ample investigations, the Superior must inquire whether perhaps in the interval between the Major Orders something has come up which makes the sacerdotal vocation doubtful or shows that there is no vocation. If that should happen, the Superior after giving due consideration to the important question must stop the candidate from receiving the diaconate or priesthood and refer the matter to the Sacred Congregation of Religious (December 1, 1931; *Acta Ap. Sedis,* XXIV, 74-81).

# APPENDIX IX

## Papal Enclosure of Nuns

### (Cfr. Canon 600)

I. In virtue of their profession and the ecclesiastical law nuns contract the obligation :

(a) always to remain within the enclosure of their monastery so that they cannot go outside without a special permission of the Holy See, except in the cases spoken of below (Canon 601) ;

(b) not to admit within the enclosure any person of either sex (no matter of what age or condition they be) without permission of the Holy See, unless the person is by law exempt from this prohibition, as stated below (Canon 600). This is the law and obligation of Papal enclosure and it affects also the monasteries in which the number of nuns has in any way decreased.

II. The monastery together with its adjoining garden (Canon 597, § 2) must be fenced in such a manner that as far as possible no outside persons can be seen from inside the enclosure nor can outside persons look inside the enclosure (Canon 602).

(1) If some windows face the public street or neighboring houses or make communication with outside persons possible, the windows must have frosted glass or shutters so that one cannot look through them.

(2) If the choir has grilles through which the nuns see the altar, the grilles must be made in such a way that the people cannot see the nuns from the place that is reserved for the people.

(3) The confessional must be built in such a way that the confessor is outside, the penitent inside the enclosure.

(4) The place where the nuns receive Holy Communion must be closed in such a way that the nuns cannot be seen by the people.

(5) At the door of the monastery, at the sacristy and wherever it may seem necessary, a revolving frame is to be constructed in the wall by which necessary things can be delivered inside the enclosure. It does not matter if there is some small perforation by which one can see what is put on the frame.

(6) The public church with its sacristy is not within the enclosure, and the nuns cannot go into those places without permission of the Holy See.

III. The law of enclosure can be violated in two ways: either by unlawful egress of the nuns outside the limits of the enclosure, no matter under what pretext and for how short a time (Canon 601), or by unlawful entry of any other person without permission of the Holy See.

(1) Egress of a nun after profession from the monastery without permission of the Holy See is permissible only in case of imminent danger of death or some other extremely grave evil. That danger, if time permits, must be recognized in writing by the local Ordinary (Canon 601).

(a) Such dangers are: fire, flood, collapse of the building, war, invasion of soldiers, and the like. Dangers may be caused by some nun (as, for instance, when stricken with violent insanity, contagious disease), in which case the nun must leave the enclosure to prevent harm to the community; if time permits, the local Ordinary at the request of the nuns shall in writing recognize the danger and the sufficient cause for leaving the enclosure.

*(b)* Without permission of the Holy See a nun cannot be transferred from one monastery to another, even of the same Order and for a short time, nor may a nun go outside for the purpose of founding a new monastery, or to act as abbess or mistress of novices, or to recuperate her health, or to supervise the building of a new monastery. These permissions, however, arc usually conceded by the Sacred Congregation for just reasons and under precept of due conditions to be observed.

(c) If there be a place on the roof of the house for walking, the nuns may go there provided the place be properly enclosed all around.

(d) As it is very frequently necessary for the care of the church that the nuns themselves go there to sweep and clean and decorate it on the greater feasts, the Holy See grants the Superioress of the monasteries who asks for this favor permission to designate as many nuns as may be necessary to work in the church at a time when nobody is in church and while the church is locked.

(c) Though the aspirants for the religious habit are subject to the law of enclosure as postulants (Canon 550, §2), they may nevertheless freely and without permission of the Holy See leave the monastery when of their own accord they return to the world, or when they are dismissed by the superiors. The same applies to the novices and to the temporarily professed when their vows expire or when they are legitimately dismissed.

(2) Entry into the monastery without permission of the Holy See is permitted (in virtue of Canon 600) to the following persons:

(a) to the local Ordinary or the Religious Superior when they make the visitation, or to other visitors delegated by them; they may enter only for the purpose of inspection and under condition that at least one cleric or religious of mature age accompanies them (Canon 600, n. 1) ;

(δ) the visitor can therefore enter only for the *local* visitation. The *personal* visitation must be made outside the enclosure at the grille. Neither the Ordinary nor the Regular Superior or the visitor may apart from the act of visitation enter the enclosure because of his office;

(c) for the examination which is to take place before the entrance into the novitiate and before both the temporary and the solemn vows, neither the local Ordinary nor his delegate may enter the enclosure (Canons 506, § 2, 552, § 2) ;

(d) if the bishop or a priest presides at the reception into the novitiate or the profession, he may not enter the enclosure nor may the candidates to be received or professed go outside the enclosure;

(e) the visitor who enters the enclosure for inspection must be accompanied by a cleric or a religious, even a lay brother, of mature age, who may not separate himself from the visitor during the whole time that he stays inside the enclosure;

(/) the confessor, or the priest who takes his place, may with due precautions enter the enclosure to administer the Sacraments to the sick or to assist the dying (Canon 600, n. 2). This faculty has reference to the ordinary confessor of the monastery or to the priest who takes his place, to whom by Canon 514, § 2, belongs the administration of the Sacraments and assistance to the dying in the monastery of nuns; if they are not at hand, another priest may enter the enclosure;

*(g)* to hear the confessions of the sick not only the ordinary but also the extraordinary confessor or their assistant or any confessor spoken of in Canon 523 called for by a seriously ill nun may enter the enclosure;

(Ji) the due precautions to be employed in the administration of Holy Communion are thus stated in the Decree of the Sacred Congregation of the Religious, September 1, 3912: “Four nuns of mature age should, if possible, accompany the priest from his entry into the enclosure to his egress while he carries the sacred pyx with several consecrated particles, administers Holy Communion, returns to the church, and puts the sacred pyx into the tabernacle, observing the rubrics of the Roman Ritual for the administration of Holy Communion to the sick”;

(i) for the hearing of confessions the following precautions are

prescribed: two nuns accompany the confessor to the door of the cell of the sick nun and stay there near the open door of the cell while the priest hears the confession in order that they may again accompany him to the door of the monastery;

*(k)* whenever the priest enters the enclosure for the above-mentioned ministrations, he must leave the enclosure as soon as he has attended to the sick;

(Z) if the Word of God cannot conveniently be preached to the nuns at the grille, the permission of the Holy See is to be requested, and, if there are serious reasons, the Holy See does not as a rule deny the permission that the preachers may enter the enclosure and preach either in the choir or in the chapter room, provided the regulations and precautions described above are observed;

(?n) those who actually hold the highest position of government in the nation and their wives and retinue may enter the enclosure; likewise the Cardinals of the Holy' Roman Church (Canon 600, n. 3);

(n) the Superioresses may with due precautions permit the entry into the enclosure of physicians, surgeons, and others whose work is necessary, provided the approbation (at least habitual) of the local Ordinary be first obtained; in urgent necessity when there is no time to ask for the approval of the men called, that approval is presumed by law (Canon G00, n. 4);

(o) in virtue of the faculty granted to her by this law of the Holy See, the Superioress can therefore permit the entry into the enclosure of all persons whose work is necessary, but before she does so, she should obtain at least the habitual approval of the local Ordinary. Wherefore, it is customary for the nuns at the beginning of each year to put down in a special record the names of all whose work is generally necessary in the monastery, or in the garden, or in the shops, also the name of the doctor that may have to be called; this record the Superioress should present to the local Ordinary to be signed by him with his approval. If, however, in some extraordinary case there is urgent necessity to allow someone to enter the enclosure and there is no time to ask for the approval of the Ordinary', the approval is presumed in law, or rather the law itself ratifies the presumed permission;

(p) the Superioress is obliged in all eases to use due precautions. They consist in this: that in reference to the persons to be admitted she obtains reliable information concerning their good reputation and excellent character, that they be accompanied by two of the more worthy nuns to the place whore their work is demanded, and that no other nun be permitted to speak to them except those who must deal with them because of their office.

IV. The keys of the enclosure shall day and night be in possession of the Superioress, who shall give them to the appointed nuns whenever necessary.

If the Superioress or any other should introduce inside the enclosure any other person without legitimate permission, or should admit a person inside the enclosure, she not only commits a grave sin but also incurs an excommunication reserved to the Holy See *simpliciter* (Canon 2342, n. 1).

The aspirants to the religious habit enter the enclosure with the permission of the Ordinary. It is not permissible without the concession of the Holy Sec to admit into the monastery girls for the purpose of education or for any other, even a charitable, cause.

V. In the parlor where the nuns may receive extern persons within the limits prescribed by the Constitutions of each religious organization, there must be double grilles separated by a space of about twenty centimeters and fixed in the wall so that they cannot be opened. If the Constitutions permit it, there may be a revolving frame. In reference to other things concerning the parlor (especially the continual vigilance over what is done and spoken there), the Constitutions of each monastery are to be exactly observed.

VI. The enclosure of nuns, even of those subject to the jurisdiction of regulars, shall as to its accurate observance be subject to the vigilance of the local Ordinary, who can punish those who violate the law of enclosure, even exempt religious, with penalties and censures and prevent them from breaking the law in the future. In addition to the bishop, the regular prolate has supervision over the enclosure of nuns subject to his jurisdiction, and he may inflict ecclesiastical penalties on the nuns and other subjects of his for the violation of the enclosure (Canon 603).

The Holy Father Pope Pius XI approved this Instruction of the Sacred Congregation, and ordered that it be observed by all (Sacred Congregation of Religious, February 6, 1924; *Acta Ap. Sedis,* XVI, 96).

# APPENDIX X

## New Rule of the Third. Order Regular of St. Francis of Assisi

(Cfr. Canon 702)

In the preamble to the Rule of the Third Order Regular of St. Francis (Apostolic Constitution, October 4, 1927; *Acta Ap. Sedis, XIX,* 361), our Holy Father, Pope Pius XI, points out the fact that God raised St. Francis of Assisi for the great spiritual reform so much needed in the thirteenth century. Besides the thousands and hundreds of thousands who listened to St. Francis and turned to a more Christian life in the world, many asked to be received into the three Orders which St. Francis founded. The Third Order for people in the world—the so-called Tertiaries or Brothers and Sisters of Penance—led to the establishment of the Third Order Regular, because many of the Tertiaries were desirous of separating themselves entirely from the world and living in community after the manner of the other two Orders of St. Francis. Pope Leo X approved the Rule of Life for the Third Order Regular. Since that Rule has become obsolete in some things, and in others does not altogether harmonize with the Code of Canon Law, the Rule has been revised for the benefit, not only of the Third Order Regular, but also for the benefit of the many Franciscan religious organizations of simple vows.

### The Rule of the Third Order Regular of the Seraphic Father, St. Francis

### Chapter I

*On the Essence of Religious Life*

1. The manner of life of the Brothers and Sisters of the Third Order Regular of St. Francis is this: to observe the Holy Gospel of Our Lord Jesus Christ by living in obedience, chastity and poverty.

2. The Brothers and Sisters, in imitation of the Seraphic Father, promise obedience and reverence to the Pope and the Roman Church. They are also bound to obey their canonically appointed Superiors in all things that concern the general and special purpose of their respective institute (from the Rule of the First and Second Order, Chapter I).

# APPENDIX X

## Chapter II

### *On the Novitiate and Profession*

3. The Brothers and Sisters who are to be received into the Third Order must be faithful Catholics, free from suspicion of heresy, firm in obedience to the Roman Church, unmarried, free from debts, sound in bodily health, of a willing spirit, unsullied in their public reputation, and at peace with their neighbors. They must be carefully examined on these qualifications before being received by him who has the right to receive them (from the Rule of the Third Order approved by Pope Leo X, Chapter I), in which examination the sacred Canons and the proper Constitutions shall be observed.

4. The year of novitiate under the guidance of the master of novices must have the purpose of instructing the mind of the novice by the study of the Rule and Constitutions, by pious meditations and constant prayer, by learning those things that pertain to the vows and virtues, by suitable exercises to eradicate thoroughly the roots of vices, to control the passions and to acquire virtues. The lay novices shall, moreover, be diligently instructed in Christian Doctrine by a special instruction given to them at least once a week (Canon 565, §§1-2).

5. At the completion of the time of probation those who are found qualified shall be admitted to profession.

## Chapter III

### *On the Love of God and of Neighbor*

6. After the removal of the obstacles to a saintly life by the three holy vows, the Brothers and Sisters shall strive to fulfill the divine law which wholly depends on the love of God and of neighbor. Charity is the essence of all virtues and the bond of perfection. For the suppression of vices, the progress in grace, and the acquisition of the height of all virtues there is nothing better and nothing stronger than charity.

7. The frequent and even daily reception of the Holy Eucharist, which is at the same time a sacred banquet and a memorial of the Passion of Christ, is a great sign of and help towards the love of Christ. The religious souls should be anxious to visit frequently and worship devoutly Our Lord Jesus abiding with us in the wonderful mystery, for this is the greatest Sacrament in the Church and the inexhaustible source of all blessings.

8. The proof, however, of the love of God is the exercise of charity towards one's neighbor; wherefore, charity towards one's neighbor

should shine forth in the true disciple of Christ. Every word should be well considered, useful and true, for, if charity is to abound in deeds, it must first abound in the heart.

## Chapter IV

*On the Divine Office, Prayer and Fasting*

9. The Brothers and Sisters shall, according to their own Constitutions, say the Divine Ofiice with dignity, attention and devotion. The lay Brothers and Sisters shall say twelve Our Fathers for Matins and Lauds, and for each of the other canonical hours five Our Fathers.

10. Every day, unless they are legitimately impeded, they must attend Holy Mass, and provide a pious priest approved by the local Ordinary, who shall explain to them the Word of God on certain days and lead them on to the practice of penance and other virtues (from the Rule of the Third Order, Chapter IV).

11. They must daily examine their conscience before God as to their actions, words and thoughts, humbly ask forgiveness for their faults, and oiler and recommend to God their good resolutions (from the Rule of the Third Order, Chapter IV).

12. All shall be anxious daily to increase and intensify the fervor of devotion by frequent meditation on the Passion of Christ. They shall follow and imitate the Seraphic Patriarch in order that they may be able to exclaim with St. Paul: "With Christ I am nailed to the Cross. ... I live, now not I: but Christ liveth in me" (Gal., ii. 19-20).

13. Besides the days of abstinence and fast which are obligator}' on all the faithful, they shall observe those which their own Constitutions prescribe, especially the vigils of the feasts of the Immaculate Conception and of the Seraphic Father, Francis.

## Chapter V

*On the .Hanner of Interior and Exterior Deportment*

14. Inasmuch as the Brothers and Sisters of this Fraternity arc called Brothers and Sisters of Penance, they shall daily carry the cross of mortification as it behooves real penitents.

15. They must, moreover, abstain from all novelty in dress as well as in all other things. According to the salutary counsel of St. Peter, the Prince of the Apostles, they must lay aside all vain ornaments of this world and wear no bodily ornament except their proper religious habit (from the Rule of the Third Order, Chapter VI). They arc,

moreover, obliged to observe the closure according to the Sacred Canons and their own Constitutions.

16. They must be Sparing in word and conversation, which arc rarely indulged in without sin. The conversation of the Brothers and Sisters should be such that they may edify all by word and example, and they should be mindful of the words of the Lord: "So let your light shine before men that they may see your good works and glorify your Father who is in heaven" (Matt., v. 16). They shall announce peace to all with a humble and devout salutation; and they shall carry with them peace, not only in words, but always in their hearts (from the Rule of the Third Order, Chapter VI).

## Chapter VI

### *On the Care of the Sick*

17. If a Brother or Sister fall into some illness, nobody should refuse a helping hand, but it is the duty of the Superior's to provide proper service for the sick. The others who are not appointed to serve, should not be loath to visit the sick and comfort them with consoling words. Not only the sick, but also the old members and others who in any way are in distress, should gladly be served by all with works of charity, as it behooves the children of the Seraphic Father.

IS. The principal duty of the Superiors is to admonish the sick Brother's or Sisters to accept the illness as a penance, to turn to God with all sincerity, to remind them of the approach of death and of the severity of God's judgment and of His Divine mercy (from the Rule of the Third Order, Chapter VII).

19. After a Brother or Sister has departed this life, the Superiors shall arrange that the burial sendees are conducted with great devotion (from the Rule of the Third Order, Chapter IX). For the soul of every deceased Brother or Sister the prescribed suffrages shall be faithfully performed.

## Chapter VII

### *On Work and the Manner of Working*

20. Those who with the assistance of the grace of the Holy Spirit have given themselves to the senice of God, shall shun idleness and faithfully and devotedly occupy themselves with the divine worship or with works of religion and charity (cfr. Rule of the Third Order, Chapter VIT).

21. The religious shall, therefore, attend to their duties for God's sake, and whatever the Superiors ask of them they shall according to

their ability do devoutly and faithfully, as was said before. They should not refuse to do even the less agreeable works that may have to be done—yea, they should do rather these than other duties, following the example of the Seraphic Father.

22. All things should be done in charity, and the holy love of God should impel the minds of the religious in the performance of work in such a manner that they actually do work for His honor and glory only, and that they act according to the admonition of St. Paul the Apostle: "Whether you cat or drink, or whatsoever else you do, do all to the glory of God" (I Cor., x. 31).

## Chapter VIII

*On the Obligation to Observe the Contents of the Rule*

23. Everything without exception contained in the present Rule is merely a counsel to make easier the salvation of the souls of men, and nothing therein is obligatory under sin, either mortal or venial, unless a person is otherwise obligated either by human or divine law (from the Rule of the Third Order, Chapter X).

24. The Brothers and Sisters are, however, obliged to do the penance imposed by their Superiors, if they demand it for an infraction of some point of the Rule. They are also bound to the observance of the three essential vows: of poverty, according to the wording of the respective Constitutions; of chastity, which obliges them to celibacy and, besides, to abstain from every' internal or external act against chastity, which obligation is imposed by the very vow of chastity (and makes sins against chastity have a double distinct malice); of obedience, by which they assume the obligation to obey the command of the legitimate Superior in accordance with the respective Constitutions (cfr. Rule of the Third Order, Chapter X).

25. All the Brothers and Sisters shall lead a life in conformity with the prescriptions of the religious state which they have professed, and especially they shall faithfully observe those things which pertain to the perfection of their vows. They should hold in great esteem whatever conduces to the following of the Seraphic Father in charity and poverty, for it is most becoming in a son to reproduce the likeness and the virtues of his parent.

# APPENDIX X

## Conclusion

### *Blessing of the Holy Father, Francis*

Whosoever shall observe these things, may they in heaven be filled with the blessing of the Most High Heavenly Father and on earth with the blessing of His Beloved Son, with the Holy Ghost, the Paraclete, and all the Virtues of heaven and all the Saints! And I, Brother Francis, your little one and your sen-ant, confirm to you as far as I can inwardly and outwardly this most holy blessing which you may possess with all the Virtues of heaven and all the Saints now and forever. Amen (from the *Testament* of the Seraphic Father).

# APPENDIX XI

## The Pious Union of the Clergy for the Missions

(Cfr. Canon 713)

The Pious Union of the Clergy for the Missions is to be established by the Ordinary in every diocese. Its purpose is through the priests to stimulate interest in the foreign missions among the Catholic people. The means of helping the missions should consist of prayers, study of missionary activities, meetings to exchange knowledge of the missions and their needs and to devise means for the support of the missions, fostering of vocations for missionary work, sermons and other ways of informing the Catholic people of the work of the missions and how that work can be promoted, while soliciting financial aid for the missions.

Priests, secular and religious, and students of theology may become members of the Union. Enrollment is to be made by the Diocesan Council or the Regional Council of the Union or, if these are not established, by the Sacred Congregation of the Propaganda. The enrollment carries with it the obligation to work for the purposes of the Union and entitles members to the spiritual favors and privileges. Ordinary members are those who perform the good works and promote interest in the missions and pay the annual fee specified by the Council of the Union. Perpetual members are those who, besides working for the interests of the missions, donate once a larger sum specified for perpetual membership by the Council.

The Union is to have a Regional President and Council. The Sacred Congregation of the Propaganda appoints the Regional President; the local Ordinaries propose names for the President to the Sacred Congregation. The Council is appointed by the President after consultation with the local Ordinaries if he wants to appoint secular priests, or after consultation with the Superiors of the respective religious organizations if he wants to appoint religious. Each diocese is to have a Diocesan Council headed by a Diocesan Director. The Diocesan Director and the members of the Council are appointed by the local Ordinary and arc removable at will. Regulations are given for meetings of the whole Union of a country under the presidency of the Regional President, and for meetings of Diocesan Directors.

# APPENDIX XI

The following spiritual favors are granted to the members:

(1) a Plenary Indulgence under the usual conditions on the feasts of the Epiphany, Holy Apostles, St. Michael, St. Francis Xavier, once a month on a day chosen by each one, at the hour of death;

(2) an indulgence of one hundred days for every good work done for the missions;

(3) the faculties, provided the member of the Union be approved for the hearing of confessions, (a) to bless outside the City of Rome with one sign of the cross crowns, rosaries, crosses, crucifixes, medals and statuettes with the Apostolic Indulgences (cfr. *Acta Ap. Sedis,* XIV, 143); (b) to bless with one sign of the cross crowns made up after the type of the rosaries of the Blessed Virgin with the indulgences of the Crozier Fathers; (c) to bless and impose under the rites prescribed by the Church the scapulars of the Passion, Immaculate Conception, Blessed Trinity, Sorrowful Mother, and Mount Carmel; (</) to bless with one sign of the cross crucifixes with the indulgences of the Way of the Cross; (e) to bless with one sign of the cross crucifixes with the indulgence of a happy death ;1

(4) the privilege of the personally privileged altar four times a week provided one has not a similar induit for some other day;

(5) the faculty to bless the Crown of the Seven Dolors with all indulgences granted for these crowns by the Supreme Pontiffs, provided the member of the Union is approved for confessions;

(6) the faculty, provided the member is approved for confessions, to bless and impose with one formula the scapulars which they as members of the Union have the faculty to bless;

(7) the faculty to impose the scapulars spoken of above without the obligation to inscribe the names on the rolls of the Confraternity;

(8) the faculty to anticipate Matins and Lauds from noon, provided they have finished the Oflice of the Day (Sacred Congregation of the Propaganda, April 4, 1926; *Acta Ap. Sedis,* XVIII, 230).

i By Decree of tho Sacred Penitentiary of March 20, 1933 *(Acta Ap. Sedis,* XXV, 170), the faculty to communicate the power to bless religious articles with indulgences and other analogous concessions have been revoked from all societies, unions and associations. Cfr. above, Canon 911.

# APPENDIX XII

## Decrees Regarding· Oriental Clerics Who Leave Their Own Patriarchate or Country

(Cfr. Canon 684)

(a) Concerning Oriental clerics, secular or religious, who *go from* their Oriental dioceses to North, Central or South America or to Australia for the purpose of ministering to the spiritual needs of the people of their own Rite, the Sacred Congregation for the Oriental Church has issued a special Decree. In the first place, the Sacred Congregation prescribes that the bishops interest themselves in the Oriental Catholics and educate the children in Catholic schools, and that they further vocations to the priesthood among the sons of Oriental Catholics. The bishops should find out whether they have Oriental Catholics in their diocese, of what Rite they are, and whether they' need priests of their own Rite, and then inform the Sacred Congregation for the Oriental Church through the Apostolic Delegate. The Sacred Congregation will then arrange with bishops in the Orient to get priests, who must be unmarried or widowers. The Sacred Congregation reserves to itself the right to issue rescripts or orders to Oriental priests to go to a specified diocese. The Sacred Congregation itself will issue a *Celebret* to them. The rector of the church in which the Oriental priest on his journey desires to say Mass, must mark the date and church and his own name on the *Celebret.* If the priest stays too long, the rector shall notify the local Ordinary. The priest is under the jurisdiction of the Ordinary to whose diocese he is sent. Within the same country, he can be transferred from one diocese to another if both bishops agree, but the new bishop must at once inform the Sacred Congregation. No bishop is permitted to allow an Oriental priest to stay in his diocese unless he has been informed in writing by the Sacred Congregation that a certain priest is being sent to him. The priests of the Greek-Ruthenian Rite who go to the United States or to Canada to work for the Greek-Ruthenians under the jurisdiction of the bishops of that Rite, must obey the special laws laid down for the Greek-Ruthenian Rite in these countries; if they go to other countries, they have to follow the rules of this Decree (Sacred Congregation for the Oriental Church, December 23, 1929; Acta. *Ap. Sedis,* XXII, 99).

(b) Oriental clerics, secular or religious, who do not go for the care of souls but for other reasons to North, Central or South America or Australia, must through their own bishop or patriarch ask permission from the Sacred Congregation for the Oriental Church, explain the reason for going, the time necessary for making the trip, the places they want to visit, and, if there is question of visiting relatives or of attending to business, state the residence of those people. The Sacred Congregation will inform the bishop of the place where the priest wants to stay for a while, and the priest shall get letters from the Sacred Congregation to identify him. If an Oriental priest presents himself to the bishop, saying that he has permission from the Sacred Congregation to stay a while and the bishop has not been informed by the Sacred Congregation, he should not permit him to say Mass, even if the priest has letters which purport to be issued by the Sacred Congregation, but refer the matter to the Sacred Congregation through the Apostolic Delegate. On the way to his destination, the priest may be allowed to say Mass under the same regulations as were given in the other Decree concerning Oriental priests going to minister to the pcojde of their Rite (January 7, 1930; *Acta Ap. Sedis,* XXII, 106).

(c) In a later Decree the Holy See made regulations concerning Oriental clerics going away from their own patriarchate or country to stay in any other country. The regulations bind both the secular and religious clergy of the Oriental Church.

(1) They must obtain from their own Ordinary the *litterce dimissoriales,* and through their Ordinary the *littera commendatitia* of the Sacred Congregation for the Oriental Church. The letters of the Sacred Congregation will indicate the place to which the priest is going and the length of time he is permitted to stay there.

(2) The priest is in all things relative subject to the discipline of the local Ordinary and must obey him. The bond of subjection to his own proper prelate or patriarch is not thereby affected.

(3) When he arrives in the diocese specified in the letter of the Sacred Congregation, he is not allowed to move into another diocese except for a reason approved by both the bishop of the first diocese and the bishop of the other diocese, and with the consent of both. If conditions are attached to his moving to another diocese, he is bound by them.

(4) After the lapse of time for which he had permission from the Sacred Congregation, he must return to his own diocese. If he stays longer without a reason, the Ordinary shall not permit him to say Mass, and shall report the matter to the Apostolic Nuncio or Delegate or to the Sacred Congregation.

(5) The priest is not allowed, even temporarily, to exercise the

sacred ministry unless lie was for that purpose admitted to the diocese, or unless he has orders from or the explicit consent of the local Ordinary.

(6) If the priest stays for more than one year for the purpose of the sacred ministry, he shall at the end of each year (the year to be reckoned from the date of the letter of the Sacred Congregation) send a report to the Sacred Congregation about the religious condition of the faithful whom he served and what he did for them in the sacred ministry. The report is to be submitted to the local Ordinary that he may approve it with his authority and signature, and append remarks concerning it. The Ordinary shall forward it to the Sacred Congregation.

(7) The priest shall be forbidden to take up collections and gather Mass stipends, as ordained in the Decree of this Sacred Congregation of January[1] 7, 1930, about Oriental clerics taking up collections and Mass stipends outside Oriental countries and dioceses.[1]

(8) In reference to the celebration of Holy Mass during his journey to the foreign country or the return to his own diocese or country, the rector of the church where an Oriental priest wishes to say Mass may, if he sees fit, allow him to celebrate Mass for a few times, provided the priest exhibits the rescript or letter from the Sacred Congregation spoken of under η. 1, and provided the rector marks on that document the date and church where he said Mass and puts his signature to it. If the priest stays longer than seems reasonable, the rector should notify the local Ordinary. The local Ordinary should not allow the priest to say Mass when he stays an unreasonably long time in a place on his journey, or goes travelling here and there, and the Ordinary should inform the Apostolic Nuncio or Delegate or the Sacred Congregation.

(9) The local Ordinaries are urgently requested by the Sacred Congregation to enforce fully this Decree if they have Oriental clerics in their diocese. The Oriental priests must immediately conform to these regulations; and if they have no rescript from the Sncred Congregation, they must ask for it, for otherwise they can no longer be allowed to say Mass outside their own country (Sacred Congregation for the Oriental Church, September 2G, 1932; *Acfa Ap. Sedis,* XXIV, 344).

i Cfr. above, Canon 98, c.

# APPENDIX XIII

## Instruction on Altar Breads and Wine and the Distribution and Reservation of the Blessed Sacrament

(Cfr. Canon 815)

On March 2G, 1929, the Holy See issued an Instruction concerning altar breads, altar wine, the distribution of Holy Communion, and the reservation of the Blessed Sacrament during the last three days of Holy Week, and gave the following rules to the Ordinaries:

(1) In accordance with the remarks, precepts and decrees of the Instruction, the Ordinaries shall as soon as possible command that these things be most faithfully observed by the rectors of churches, and under the leadership of the rectors by others who serve the altar, in order that all danger of nullity of the Sacrifice of the Altar be removed and all occasion of irreverence be eliminated.

(2) They shall, therefore, see that in each diocese or city or town, according to the nature of the various places, there be not wanting qualified persons above all suspicion (especially religious of either sex), from whom the rectors of churches can obtain the altar breads and altar wine which can be used with a safe conscience, unless they make these things themselves.

(3) In reference to the hosts, the rectors shall see that the fragments which so easily adhere to the hosts are removed, and that, before Holy Mass is said, they are carefully brushed off, and that, if there is a very large number of hosts to be consecrated, they are gently shaken in a sieve.

(4) They shall employ special care to see that only fresh hosts are consecrated, and that the sacred particles kept in the pyx are frequently renewed (Canon 1272; *Rituale Romanum,* tit. IV, cap. I, n. 7). They should endeavor to ensure that the tabernacle in which the Holy Eucharist is reserved be protected as much as possible against dampness and against extreme cold air, for under the effect of humidity the hosts decay and under the effect of frost they become brittle.

(5) In the distribution of Holy Communion to the faithful there should be used—besides the white linen cloth spread before the communicants, as required by the rubrics of the Missal, the Ritual and tho

*Caremoniale Episcoporum*—a plate made of silver or of other gold-plated metal, without any engravings on the inside but plain, which is to be held by the people themselves under their chins, with the exception of the case when the bishop distributes Holy Communion, or a prelate who uses the pontificials, or in a Solemn High Mass, when a priest or deacon assists and holds the paten under the chins of the communicants.

(6) The faithful are to be earnestly admonished that, when they hold the plate under their chins and then give it to the priest or pass it on to another communicant, they shall not hold it slanting or turn it over, lest the fragments, if there be any, fall off and be lost.

(7) The fragments which are found on the plate after the Communion of the faithful shall, when Communion is distributed during the Mass, be very carefully collected by means of the index finger and dropped into the chalice; if Holy Communion is given outside of Mass, they shall be put into the ciborium. It is not the intention of the Sacred Congregation to condemn plates (of whatever shape they may be) which at present are used in some churches, provided they be of metal and are not ornamented with engravings inside and arc otherwise practical for catching the fragments.

(8) The Ordinaries shall insist that the rectors of churches shall be most solicitous to keep altars and also the sacred utensils clean, especially those which come into contact with the Blessed Sacrament; and they should remember that it is a grave matter of conscience to observe the aforesaid prescriptions.

(9) In reference to the sacred particles to be reserved during the last three days of Holy Week for the benefit of the sick, the Ordinaries should understand the intention of the rubrics and the Decrees of the Sacred Congregation of Rites; they should remember that these Hosts are not kept for public veneration, but that on the contrary the latter is forbidden. Nevertheless, great care must be taken that due honor and respect is shown to the Eucharistic Sacrament, and first and foremost in regard to the place where it is to be reserved.

Their Eminences, the Cardinals of the Sacred Congregation of the Sacraments, moreover command that the local Ordinaries, within one year from the reception of this Instruction, inform this Sacred Congregation concerning those things which they have seen fit to ordain towards the execution of the precepts herein contained and for the abolition of inveterate abuses that may exist (Sacred Congregation of the Sacraments, March 2G, 1929; Acia Ap. *Sedis,* XXI, G31).

# APPENDIX XIV

## Instruction of the Sacred Congregation of the Sacraments to the Right Reverend Local Ordinaries Regurding- the Scrutiny of Alumni Before They Are Promoted to Sacred Orders

(Cfr. Canons 996-1000)

*§ ]. Regarding the Duty of Ordinaries to Scrutinize Sedulously the Character of Candidates before Ordination.*

1. What a great detriment to the Church and the salvation of souls is occasioned by those who without a divine vocation presume to enter the sacerdotal ministry—a formidable burden even for angelic shoulders—is palpable to all. Wherefore, to avert numerous and grave evils from the Church herself and the Christian faithful, those who have been placed by the Holy Spirit to rule the Church of God should take the most sedulous care to bar the entrance to so great a ministry from those to whom, on account of their lack of the sacerdotal vocation, should be applied the saying of Christ Our Lord: "Amen, Amen, I say to you: he that entcreth not by the door into the sheepfold but climbcth up another way, the same is a thief and a robber" (John, x. 1).

This Sacred Congregation of the Discipline of the Sacraments, which in virtue of Canon 249, § 3, is competent in cases wherein there is question of the nullity of Sacred Ordination and of the burdens annexed to the same, has noticed in the investigation of these cases that the matter at issue very often concerns complaints about Ordination of priests who, although they cannot prove that they have been driven by force or grave fear to receive Sacred Orders, nevertheless from the evidence produced demonstrate plainly that they have been enlisted in the ranks of the clergy in an anomalous fashion, or that their vocation has not been sufficiently tested, and they have not received Sacred Orders with a free and spontaneous will. To eradicate so grave a disorder, this Congregation desires to insist again on what St. Paul recommended when writing to Timothy (v. 22) : "Impose not hands lightly upon any man; neither bo partaker of other men's sins." The same is recorded and expounded more at length in the Code of Canon Law: "Let not the Bishop confer Sacred Orders on any one unless he is morally certain from positive arguments of his canonical

fitness. Otherwise, not only docs he sin most gravely, but he even exposes himself to the danger of participating in the sins of another" (Canon 973, § 3).

2. In the first place, therefore, the Bishop should take account of the provisions of the existing law regarding the discipline of seminaries and of the other norms which it has heretofore pleased the Sacred Congregation of Seminaries and Universities to prescribe to the end that the alumni of seminaries may show themselves adorned with those qualities which are required today for the proper, holy and fruitful exercise of the sacerdotal ministry. To those provisions, moreover, should be added whatever Canon Law prescribes concerning not only irregularities but also the impediments to the reception of Sacred Orders, as commanded in Canons 983-987, and the other requisites which Canon 973 demands in the subject of Sacred Ordination.

3. To assure the proper execution of these provisions, the Bishop or Ordinary should, in scrutinizing the character of those who seek to be enlisted in the sacred ranks of the priesthood, keep steadily in view the utmost importance of barring from the very threshold and refusing tonsure and Minor Orders to those who arc not suited for the discharge of the sacerdotal ministry or have not been called by God. For Sacred Orders are conferred at the end of a course of studies; but "it is more shameful to be cast out than not to be admitted as a guest." Everyone indeed knows what a grave and difficult affair it is to dismiss a youth after he has almost finished his theological studies, not only because of his already advanced age (by reason of which no easy way is open to him to enter another mode of life and studies), but also out of respect for human relationships —especially with relatives and friends, who are wont to attribute such changes in the mode of life to a defect in or lightness of character, and therefore no stone is left unturned so that he may proceed further who has progressed so far.

4. Besides, as is made clear by the cases discussed before this Sacred Congregation concerning the nullity of Sacred Orders and annexed obligations, the examiners should keep in view the reasons which are commonly given by those asserting that they had not the true will to receive Holy Orders or at least to undertake the grave obligations annexed to Sacred Ordination. Some of these reasons are *internal* or *intrinsic* in the complainants, such as the desire to enjoy the easier (according to common opinion) clerical life, to attain honors, to acquire riches more readily, or—and this is the most frequent reason of all—to escape manual labor (lest they be forced to dig and cultivate the fields with their parents and brothers or to pursue some similar mode of life), or to enjoy clerical privileges

and especially exemption from military service or worldly occupation, or at least to acquire with the clerical state a higher station even in civil estimation. The reason *extrinsic* to the petition, and as it were the classical one in these cases, is grave fear, whether absolute or relative, such as reverential fear. Both species of fear, however, have been most minutely explained in Canon Law.

Wherefore, in order that the Right Reverend Local Ordinaries may more easily comply with the precepts of the Sacred Canons, this Sacred Congregation lays down the following norms respecting the method of the scrutiny and determining the sources from which the truth may be drawn. But it is not the intention of the Sacred Congregation that each and every investigation should be carried out in absolutely all cases without exception, since some of the inquiries are frequently superfluous or impossible; but that all the information that can be gathered or tested about the character of the Ordinands should be assembled before they may be safely advanced to Sacred Ordination.

5. The acts which are drawn up in these investigations should be kept in a secret archive of the Curia.

§ 2. *Concerning the Scrutiny to be Made before the Conferring of Tonsure and Minor Orders.*

1. When the time approaches for the candidates to receive first tonsure or Minor Orders, let them present at least two months beforehand a written petition to the Rector of the Seminary, signed and subscribed in their own hand, in which they should candidly signify that they are seeking first tonsure and subsequently Minor Orders wholly of their own free and spontaneous will.

2. Such a petition, to which testimony must be added of the reception of Baptism and Confirmation, shall be submitted by the Rector of the Seminary together with his personal information of the fitness of the petitioner for the clerical state to the Right Reverend Bishop, who will follow the norms described below, unless, in consideration of the information of the same Rector and having perhaps before him other information known to him as certain, he shall decide that the aforesaid petition should be rejected forthwith.

3. If there be question of alumni dwelling in regional seminaries or in Italian or foreign ecclesiastical colleges, especially those in this sacred city, the Rector (unless he has habitually a special mandate from the Bishops of the alumni to investigate petitions of this kind according to the following norms, the distance of places being taken into consideration) shall take care that the petition submitted to him by the alumni shall be also transmitted, fortified with his own information, to their owm Bishops.

4. In both cases, as is proper, the Ordinary shall return this petition to the same Rector of the Seminary with the mandate to investigate in his name and under his authority the fitness and qualities of the petitioner for the time he has been in the seminary.

If the Rector of the Seminary is absent and a Vice-Rector is taking his place, or if the Bishop thinks that the Rector is not the one who can institute a useful investigation in the case, he should refer the mandate of investigating to another.

5. The Rector of the Seminary will take care to seek most diligently for information regarding those to be promoted from the prefects of the alumni (especially if these be adorned with the sacerdotal dignity), as well as from those who exercise the office of professors in that Seminary. These he will hear not only separately but also together in convocation, namely, about the special signs of vocation such as piety, modesty, chastity, about their propensity for sacred functions, about their progress in studies, about good character, for which inquiries may serve the questionnaires given in Mod. II and III, *congrua congruis referendo.*

Whereas in Diocesan Seminaries there should be a board of deputies for maintaining discipline in accordance with Canon 1359, these also should be interrogated in the investigations if they are well acquainted with the candidates.

When the Rector of the Seminary transmits to the Bishop the information gathered in virtue of his mandate, he shall declare his judgment or manifest his opinion as based on this information regarding the character and dispositions of the candidate. A judgment of this kind will, indeed, have no little weight, because it is presumed that the Rector, above all others, will render a correct judgment on the alumni.

6. To scrutinize the matter more closely in individual instances, however, the Bishop shall furthermore enjoin the pastor of the alumni and of their families to inquire sedulously not only regarding the signs of a vocation in those to be promoted, but also about their former and present manner of life; and he shall most of all inquire how they have conducted themselves during the holidays (whether, namely, they have shown a certain levity of mind or have engaged in profane affairs), and what is their public reputation (Mod. II). He shall inquire, moreover, whether the parents of the candidates enjoy a good reputation and what are their family conditions; whether for the sake of advantage or gain relatives are impelling reluctant candidates to enter the priesthood by importune persuasions, prayers or threats, or in any other way, fearing forsooth that some damage will accrue to

* - is declined. If these incitements or

disorders be manifest, or there exist a prudent doubt about their existence, the Ordinary shall do his utmost quietly to dissuade them from proceeding further or, if the case warrants it, he shall strongly admonish the parents of the penalty of excommunication to be incurred *ipso facto* decreed by the Church against those who in any way force a person to receive Holy Orders (Canon 2352).

7. If the pastor be related to the one to be promoted either by consanguinity or affinity, the Bishop shall take care to gather the information from another pastor or priest dwelling in the place; this takes place especially when the candidate is about to receive Sacred Orders, before the canonical publications are made, or when the same have been legitimately dispensed with in virtue of Canon 998. In order to avert evils which are wont to arise after the burdens of Sacred Ordination have been rashly undertaken, it is of no little value to inquire whether it may be rightly conjectured or suspected that some abnormality may have descended from the parents to the candidate, and especially whether he has a disposition towards lust which savors of atavism (Mod. II). This investigation every Bishop should take care to conduct for his own subjects.

8. Furthermore, let the Bishop ask the Rector of the Seminary and the Vice-Rector separately what they sincerely think of the candidates, if this can be done. This should take place after the information has been collected in virtue of his mandate by the same Rector.

Other persons of distinguished probity, whether ecclesiastical or lay, who can give special information regarding the candidates, should also be questioned according to Mod. III, if the Ordinary in view of the circumstances of things and persons thinks it opportune to question them, especially when there remains some doubt about the character and the canonical fitness of a candidate.

9. Nor is that enough; for the mind of the individual candidates will have to be more thoroughly explored by their own Bishop or, if he is impeded, by the Vicar-General, or under his orders by the Rector of the Seminary or even by those who are deputed for the maintenance of the discipline of the whole seminary. In the ease of almuni dwelling in seminaries outside the diocese, the mandate for this can be referred to the Ordinary of the place of residence or some ecclesiastical dignitary, or to the Rector of the Seminary himself. For it is necessary, lest partiality deceive or affection err, that the Bishop test the will of the ordinands by himself or one of the mentioned persons, and that he should clearly know whether those to be promoted ask for Sacred Ordination under the pressure of the persuasions, supplications and promises of others, or even compelled and terrified by threats; whether also they are fully cognizant of the burdens to be

undertaken by them, and especially of what the law of celibacy implies, and whether they are prepared to observe this fully and constantly with the help of divine grace, avoiding the dangers by opportune means, so that their conduct, as the Roman Pontifical reads, may be upright and pleasing to God and worthy of an increase of ecclesiastical honor. Whence, it will be expedient for the Bishop to read through for the candidates the words which are given in the Roman Pontifical and to explain them very accurately, namely, that those to be promoted should attentively consider again and again what a burden they seek; that before Sacred Ordination, since they are free, it is lawful for them freely to pass over to secular occupations; but after the reception of Sacred Orders they may no longer abandon their intention, but must serve God perpetually and observe chastity. Therefore, while there is time, let him exhort those to be promoted that they should consider zealously and before God (so that the Bishop may be informed), whether they seriously intend to persevere in a resolution of this kind and are prepared to keep the promises. With the kindest words and in a paternal manner, the Bishop will persuade them to open up candidly their minds to him, most confidently assuring them, if it be necessary, that he will gladly do his best to sec that they shall enjoy due liberty; so that, lacking a true purpose in such a grave matter, they may secure another office for themselves more suited to their dispositions and character.

§ 3. *Concerning the Investigation to Be Conducted Before Clerics Are Initiated into Major Orders.*

1. When it can be prudently inferred from the completed investigations that the petitioner may be admitted to theological studies, and that first tonsure and then Minor Orders may be conferred on him, consideration should be given to the Acts of the investigations preserved in the archives of the Curia, when the alumnus asks to be promoted to the subdiaconate. However, the Bishop or Local Ordinary should attend not only to what has already been done but, before subdeaconship is conferred, he should again investigate the character of the candidate, observing the method already explained. As indeed it is superfluous to note, it is unnecessary to inquire again concerning the origin of the alumnus, his parents' character and disposition, and the earlier character of the alumnus, unless there has arisen a just suspicion that the information already acquired does not agree with the truth.

But it is always of interest to inquire of the character of the alumnus and his moral qualities, how namely these have been manifested by the life passed in the seminary and from his progress in

studies. After these investigations have been completed, if there be no canonical reason which would urge that the alumnus be barred from subdeaconship, he must subscribe in his own hand and confirm under oath the declaration contained below in Mod. I, in which he attests that with complete liberty he seeks the Sacred Order, and that he has duly considered all the burdens annexed to the same. This declaration indeed will be similarly executed by the candidates before they are promoted to the remaining Sacred Orders, namely, the deaconship and the priesthood.

2. When there is question of conferring deaconship, it suffices for the most part to keep in view the investigations already' made, unless in the meantime new circumstances have to be considered which would force one to doubt the sincere purpose of the candidate or his moral fitness to bear the burdens and to fulfill the obligations undertaken in Sacred Orders.

Perhaps a doubt of this kind which has arisen may have to be dispelled by instituting investigations, either opportune or necessary according to the above norms, depending on the character of the case. But if the matter has reached the point where it is clearly evident that the subdeacon to be promoted to deaconship either never actually had a sacred vocation or has lost it through corrupt morals, then the matter will have to be scrutinized more thoroughly, as wo shall now say in connection with the promotion of a subdeacon to the deaconship and with the conferring of the priesthood.

3. Before any one is initiated into the deaconship or priesthood, whenever the Bishop has convincing evidence from the admissions of the candidate, or from other certain indications and proofs received, that the latter is really destitute of a sacred vocation, let him not omit to approach the Holy See, relating candidly' and fully the status of affairs or the arguments by which is supported the strong doubt about the fitness of the subdeacon or deacon to bear greater burdens worthily' and faithfully'. The matter is, indeed, of such great moment that the conscience of Ordinaries remains gravely' burdened by this obligation, so that the danger may' be removed of their imposing hands on a deacon or priest who is unable to sustain the very grave burden of Sacred Orders.

4. Lest the matter be brought to this extreme, however, let it be deeply imbedded in the mind of the Bishops and Local Ordinaries that it is of the utmost importance that those who are unworthy and not called should be kept away from the very threshold of Sacred Ordination. For when these have entered the sanctuary', to satisfy human cupidity or the will of another, they do not as a rule reveal their lack of a divine vocation, but are wont to cover up wholly their

less worthy mode of acting or to practise simulation. There are others who have received Minor and Sacred Orders in good faith, but, before they attain the priesthood, discover that they are unable to sustain the burdens of Sacred Ordination, or have immersed themselves in worldly vices or morals: in these doubtless the defect of a sacred vocation will be apparent more easily and openly, and moreover these same will request that their most miserable condition be provided for.

5. Wherefore, it is of the utmost importance that the prescribed norms be observed exactly and most diligently before Bishops admit candidates to the clerical ranks, or for this purpose send dimissorial letters to the Bishop of the place for their subjects dwelling in another diocese. Whence it will follow that those enrolled in Sacred Orders will become worthy dispensers of the mysteries of God, and greatly guard and promote on earth the kingdom of God to the benefit of the Catholic, world and the civil state (December 27, 1930; *Acta Ap. Sedis,* XXIII, 120).

Mod. I

*Declaratio propria manu subscribenda a candidatis in singulis sacris Ordinibus suscipiendis, iuramento coram Ordinario præstito.*

"Ego subsignatus *N. N.,* cum petitionem Episcopo exhibuerim pro recipiendo subdiaconatus (seu diaconatus vel presbyteratus) Ordine, sacra instante Ordinatione, ac diligenter re perpensa coram Deo, iuramento interposito, testificor in primis, nulla me coactione seu vi, nec ullo impelli timore in recipiendo eodem sacro Ordine, sed ipsum sponte exoptare, ac plena liberaque voluntate eunidem velle, cum experiar ac sentiam a Deo me esse revera vocatum.

"Fateor mihi plene esse cognita cuncta onera cætcraque ex eodem sacro Ordine dimanantia, quæ sponte suspicere volo ac propono, caque toto meæ vitæ curriculo, Deo opitulante, diligentissime servare constituo.

"Præcipue quæ cælibatus lex importet clare me percipere ostendo, camque libenter explere atque integre servare usque ad extremum, Deo adiutore, firmiter statuo.

"Denique sincera fide spondeo iugiter me fore, ad nonnam ss. Canonum, obtemperaturum obsequentissime iis omnibus, quæ mei præcipient Præpositi, et Ecclesiæ disciplina exiget, paratum virtutum exampla præbere sive opere sive sermone, adeo ut de tanti officii susceptione remunerari a Deo merear.

"Sic spondeo, sic voveo, sic iuro, sic me Deus adiuvet et hroc Sancta Dei Evangelia, quæ manibus meis tango."

(Loco) . . . die . . . mensis . . . anni. . . .

# APPENDIX XIV

## Mod. II

*Inquisitio ope Parochorum peragenda*

Parochus in sua scripta relatione super his mentem suam aperiet:

1. Num clericus in explendis pietatis operibus, videlicet in piis peragendis commentationibus, in audienda Missa, in visitatione Ssmi Sacramenti atque in mariali rosario recitando sedulus et devotus exstet.

2. Num ad sacram Confessionem et ad sacram Synaxim crebro ac devote accedat.

3. Num diligenter ac pie in sacris functionibus suum ministerium expleat.

4. Num christianæ doctrinae tradendae, quatenus huic extra Seminarium addictus fuerit,[1] suam operam navet.

5. Num studium curamque prodat divinum provehendi cultum, animarum curandi bonum, atque ad sacra exercenda ministeria propensionem patefaciat.

6. Quibus speciatim intendat studiis, et qua sedulitate.

7. Num profanis perlegendis libris diariisque, odium contra fidem, vel bonos mores, foventibus, sit deditus.

8. Num autumnalibus feriis extra Seminarium clericali veste usus sit atque utatur.

9. Num prædictis feriis cum aliquibus utriusque sexus personis non bonæ famæ, aut etiam borne famæ sed cum scandalo et admiratione fidelium, si agatur de personis alterius sexus, familiaritatem foverit, vel loca frequentaverit haud suspicione carentia.

10. Num in loquendo probum ac integrum sese ostenderit.

11. Num occasionem præbuerit ut censoria nota afficeretur circa mores, vel Ecclesiae doctrinam et praecepta.

12. Quomodo se gerat cum pueris, puellis aliisque diversi sexus personis.

13. Num se proclivem exhibeat ad vitae commoda, ad copiosum hauriendum vinum, ad liquores sumendos, atque ad profana oblectamenta capienda.

14. Num caritatem ostendat, demissionemque atque obsequium iis qui præsunt, praebeat.

15. Quæ sit publica de ipsius vocatione opinio.

16. Num inter parentes alicuius infirmitatis indicia, ac praecipue mentis morumque pravorum, adsint, quæ atavismum suspicari sinant.

17. Num parentes vel alter e familia ipsum impellant ad sacerdotium ineundum.

[1] Priusquam vero candidatus ad ulteriores sacros Ordines promoveatur, si nondum præfato muneri addictus fuerit, addici debet.

## Mod. HI

*Interrogatorium aliis personis probis proponendum*

Quo autem facilius personæ probæ interrogationibus responsa præbeant, hæc ab ipsis erunt exquirenda :

1. An clericus sive in ecclesia sive in consuetudine cum aliis habenda, pie, graviter, prudenterque se gesserit ac gerat.

2. An aliquod de sua vocatione ad sacros Ordines foveri possit dubium, et qua ratione.

3. An parentes vel alter o familia ad eosdem suscipiendos sacros Ordines ipsum impellant.

4. An familiariter utatur cum iis qui in suspicionem veniant de fidei carentia vel de malis moribus.

5. Quæ sit publica et præcipue præstantiorum hominum existimatio de agendi ratione, tum morali tum religiosa, eiusdem clerici, et de eius vocatione ad sacerdotium ineundum.

# APPENDIX XV

## Concerning the Retreat Before Sacred Orders

### (Cfr. Canon 1001)

(1) The question was proposed to the Sacred Congregation of the Sacraments, whether it be the mind of the legislator that the precept of Canon 1001, § 1, be observed precisely as it stands even in the case when all the Sacred Orders are conferred on someone within a very short interval (e.g., within one month). The Sacred Congregation answers: The precept of Canon 1001, § 1, is to be observed, namely, that the Ordinary may, if one is to receive several Major Orders within a semester or within a month, reduce the length of the Spiritual Exercises for the ordination to deaconship to not less than three full days. If by Apostolic Induit, or by order of his bishop given for a grave reason and in conformity with Canon 1006, § 3, a candidate is to receive several Major Orders on successive days or in close proximity, so that there is no time to apply the precept of Canon 1001, § 1, at least six full days of retreat shall precede the first Major Order, and, if it can be done, one day of retreat shall be made before the other Major Orders (May 2, 1928; *Acta Ap. Sedis, XX,* 359).

Note.—The following is contained in the "Animadversiones" or remarks appended to the Decree in the *Acta Apostolicæ Sedis.*

(1) The Spiritual Exercises, originated by St. Ignatius of Loyola, Founder of the Society of Jesus, were nearly everywhere performed by candidates for Sacred Orders before the promulgation of the Code of Canon Law. This was done either by positive precept made for particular countries (cfr. Alexander VIT, "Const. Apostolica sollicitudo," August 7, 1662; Sacred Congregation of Bishops and Regulars, Encyclical to the Bishops of Italy, October 9, 1682) or by laudable custom.

(2) The Code of Canon Law not only made this practice of universal precept, but extended it by prescribing also for Minor Orders and even for tonsure a definite length of time for the retreats to be made, as may be seen from Canon 1001, $ 1.

(3) Though the law of the Code on this matter is clear and precise, the above question was submitted to the Sacred Congregation.

(4) The Sacred Congregation discussed the matter in Plenary Session on April 27 of this year, and gave the above answer.

(5) The answer of the Sacred Congregation is in harmony with the words and intent of Canon 3001, § 1, that is to say, the answer is a mere declaration of the precept of the Code, not a new law.

(G) The reason for submitting the question at all seems to have been that the Code itself permits the Ordinary to limit the days of retreat for deaconship to three days, if subdeaconship and deaconship are conferred on the same cleric within six months. Wherefore, it seemed logical to suppose that the retreats for deaconship and priesthood could be still more shortened, if these Orders were all conferred within one month.

(7) However, there was no real reason to claim that the retreat could be shortened to less than three days, if the three Major Orders were conferred within a month, for the Code states that, whenever several Major Orders are conferred within six months, the retreat cannot be shortened to less than three days. Now, whether the Orders are given within six months or within any part of six months, the rule of the Code must be observed.

(8) Some persons had claimed that the precept of Canon 1001, § 1, should be understood to allow a greater shortening of the retreat if the three Major Orders were conferred within a month, because the pious disposition required for reception of the Sacred Orders has already been acquired by the preparation for subdeaconship, and there is a moral union or continuance of the ordinations that take place within so short a space of time. However, the retreat originally meant Spiritual Exercises for one whole month. Through the influence of St. Vincent de Paul, the practice had been established to have ten days' retreat before each of the three Major Orders—that is, thirty days in all.

*(9)* Since the Code of Canon Law has reduced the retreat to six full days, nobody should assert that the six days made before the reception of subdeaconship should also suffice to give the proper disposition for deaconship and even the priesthood, which latter is so sacred that all preparation falls short of being adequate.

(10) If, however, by special permission or faculties of the Holy See or through necessity, the Bishop confers the Major Orders on three successive days or on successive Sundays and holydays, then the observance of the days of retreat for the second and third Major Order becomes impossible.

(11) The authority given to the Bishop to limit the retreat to one

day for the second and third Major Order when all three are conferred in quick succession, is in harmony with the mind of the Church, which, in Canon 1001, § 2, leaves it to the discretion of the Bishop to decide whether the retreat should be repeated, if after the preparatory retreat the ordination is deferred for less than six months. In any case, the general law of the Church cannot take account of each and every extraordinary circumstance in which the law of the Church cannot be applied to its full extent. In these circumstances that should be done which is more conformable to the spirit of the Sacred Canons. For that purpose the Sacred Congregation gave the above answer to afford to the Ordinaries some general norm which they should follow in the proposed case, so that they may have a sure and uniform mode of action in such an important affair.

# APPENDIX XVI

## Encyclical of His Holiness, Pope Pius XI, on the Christian Education of Youth

(Cfr. Canon 1113)

The Holy Father, as the representative of the Divine Master, is anxious about the spiritual welfare of all mankind, but especially about that of the children whom Christ loved affectionately: "Let the little ones come unto Me." Because of the intense efforts made for education in these days by all civilized nations, and because of the many errors in even the most elementary principles, the Supreme Pontiff desires to point out the chief ideas to be adhered to in the Christian education of youths.

Education essentially consists in such a formation of man as to make him what he should be and to teach him how he should conduct himself in this earthly life in order to attain the sublime end for which he was created. Christ says of Himself that He is the way, the truth and the life; wherefore there can be no adequate and perfect education unless it be Christian. Individuals, families, and nations must be imbued with the Christian principles of life. The training must start with the child, for childhood is the age when the impressions made are lasting and influence the whole future life according to the words of the Holy Bible: "A young man according to his way, even when he is old he will not depart from it" (Prov., xxii. 6). The greatness, beauty and excellence of the work of Christian education is seen in the sublime expression of Christ's love for the children: "Whosoever shall receive one such child as this in My name, receiveth Me" (Mark, ix. 36).

The work of education is necessarily of a social character, and not a matter to be left to individual effort. Now, there are three necessary societies, distinct and yet harmoniously united by God, in the bosom of which man is born. Two of these societies, the family and the State, arc of the natural order; the third, the Church, is of the supernatural order.

## APPENDIX XVI

What the Holy Father says concerning the right of the Church to teach not only religious knowledge but also other branches of human knowledge, is merely an enlargement of the principles laid down in the Code of Canon Law; and the Code itself only repeats what the Church has taught concerning education for many centuries past. In the education of mankind there can be no conflict between the study of religion and of human knowledge, because God is the author of the one as well as of the other, provided the human mind does not antagonize God but submits to and follows Him. In her duty of providing for the Christian education of her children the Church does not deprive the family and the State of their share in the education, but rather works for and with them.

The family has the first and most natural right to the education of its children, since the child is first a member of the family before it is a citizen of the State. Christian parents certainly have the duty to give their children a Christian education. The Holy Father quotes with approval the decision of the Supreme Court of the State of Oregon in the School Question case: "The child is not merely a creature of the State; those who raise him and bring him up have the right together with the high duty to educate and prepare him for the fulfillment of his duties. The State does not possess the general power to establish a uniform type of education for the youths, forcing them to receive instruction only from the public schools." As the Church respects the natural right of the family, she does not permit her ministers to baptize children of infidels without their consent, nor to give them a Christian education against their will, until such time as the child is capable of deciding for itself whether it wants to embrace the Faith.

The State has the right and duty to protect and help the family and the Church in the work of education and to remove whatever damaging influences there may be in the road to a good and efficient education. The State can also demand that all its citizens have the necessary civic and national knowledge and a certain degree of intellectual, moral and physical training such as is considered necessary according to the conditions of our times and the status of the State. The Church is willing to cooperate with the State, as God wants both to work for the spiritual and material welfare of the people.

The Church cannot approve of the education of children without religion and without religious environment, because it is against the law of God. The Church cannot approve of the modern sexual education which aims at imparting knowledge of the delicate subject of sex' without regard to God's law and right Christian conscience. The Church cannot approve of the co-edueational system, especially

in the years of adolescence. The materialistic or naturalistic ideas advanced in favor of this system do not take account of human nature, as we know it from revelation, and even ignore the results of experience.

In order to obtain good and lasting results in education, it is necessary that the family furnish the proper environment, and that the children are not sacrificed at too early an age to business or work that interferes with their education.

Since the family ordinarily cannot give the necessary education in all its extent (religious, scientific, civic, physical), the school must supply that need. Long before the various States thought of a school system, the Catholic Church had her schools. If all branches of education—religious, literary, social, etc.—do not go hand in hand, the education is necessarily onesided and incomplete. It does not suffice, remarks the Holy Father, that religion be taught in school, but the entire teaching and conduct of the school must be permeated with the religious atmosphere; otherwise the principal part of human knowledge and training is relegated to an incidental adjunct of the school. One should not say that in a State where other religions besides the Catholic have to be considered it is impossible for the State to furnish Catholic schools for Catholic children. No, it can be easily figured out how much it costs per head for the State to provide schooling for the children, and a sum in proportion to the number of children can be apportioned for Catholic schools. This system is actually in vogue in some countries.

The Holy Father urges Catholic families to insist on their right to give their children a Catholic education. He encourages the Catholic teachers, and begs that more of them, religious and lay, go into that field of work and do so with heart and soul. They must warn the children against bad books and improper shows, moving pictures, and radio programs, and strengthen them against the danger by good books, educational moving pictures and shows and by thorough knowledge of their religion, so that they be able to distinguish between what is right and wrong and know the reason for it.

The purpose of Christian education is to form the character so that the child, and later the man or woman, shall act from a supernatural motive in all that he does, and shall govern all his activities by right reason enlightened by the supernatural light of the example and teaching of Christ. He should use every right means to advance himself in life, because one shows gratitude and appreciation of God's gifts when one makes the most of the abilities and opportunities that God has given.

A true Christian must be a true and faithful citizen, for, if he sincerely believes in Christ's teaching, he must admit that he owes

obedience and respect to the secular authority because of God's law, and he knows that the love of the neighbor demanded by Christ commands him to be concerned in the welfare of others, and of course first and foremost in the welfare of those who are near to him (Encyclical of His Holiness, Pope Pius XI, December 31, 1929; *Acta Ap. Sedis,* XXII, 49).

# APPENDIX XVII

## Instruction Concerning the Immodest Dress of Women

(Cfr. Canon 1262, § 2)

At the exhortation of His Holiness, Pope Pius XI, to counteract the indecent fashions, many bishops have made regulations in their dioceses and forbidden Catholic ladies to wear fashionable but unbecoming dresses at the sacred functions in church, and especially when receiving Holy Communion. Though they had to suffer the insults that a heathenized press hurled against them, they remained firm in their prohibition of the unchristian fashion. The Sacred Congregation praises them for their constancy and publishes the following regulations:

1. Pastors and preachers shall urge the Catholic women to wear modest dresses, and insist that the mothers stop their daughters from wearing unbecoming apparel.

2. The parents have the obligation to care for the religious and moral education of their children and they must take special care to instruct the girls in the principles of Christian doctrine, and by word and example foster in their souls a love for the virtues of modesty and chastity.

3. The parents must keep the girls away from public gymnastic exercises and exhibitions; if their daughters arc forced to take part in such affairs, the parents should see that they wear clothes that are absolutely modest and never allow them to wear immodest uniforms.

4. The heads of girls' colleges and schools and the teachers must endeavor to instill into the minds of the girls such a love for modesty that they shall detest immodest dress.

5. The heads of schools and the teachers shall not admit to their schools girls who wear unbecoming dress, or whose parents wear them; if those already admitted do not heed the warning, they shall be dismissed from those schools.

6. The religious Sisterhoods shall not admit to their schools, colleges, chapels, or gymnasiums girls who do not dress in a manner becoming Christians, nor shall they tolerate girls already admitted.

7. Pious associations of women should be formed and fostered

whose purpose shall be to counteract by example and practical efforts the abuses of the unchristian fashions and to promote purity of morals and decency in dress.

8. Into these associations are not to be received women who do not dress according to Christian modesty, and, if actual members violate the principles of the associations and do not heed the admonition to stop the abuse, they shall be expelled from the associations.

9. Girls and women who wear immodest dress shall be denied Holy Communion, and shall not be admitted as sponsors at Baptism and Confirmation, and, if needs be, shall be stopped from entering any church.

10. On those feast days during the year which present a special opportunity to inculcate Christian modesty, especially the feasts of Our Blessed Lady, the pastors and the priests in charge of women's societies shall by appropriate sermons exhort the women to wear dresses that bespeak Christian modesty. On the Feast of the Immaculate Conception special prayers shall be offered in all cathedral and parochial churches and, if circumstances permit, an appropriate sermon should be preached.

11. The Diocesan Arigilance Committee, spoken of by the Holy Office on March 22, 1918, should at least once a year meet for the purpose of specially considering ways and means of promoting effectively Christian modesty of women.

12. In order to put these Instructions into effect, the local Ordinaries shall every three years, together with the report on religious teaching (cfr. *Motu Proprio,* June 29, 1923), inform the Sacred Congregation of the Council on the matter of immodest dress of women and what the Ordinaries have done to counteract that evil (January 12, 1930; *Acta Ap. Sedis,* XXII, 26-28).

# APPENDIX XVIII

## Gregorian Chant and, Sacred Music

### (Cfr. Canon 1264, § 1)

(a) The Holy Father, Pope Pius XI, desires to remind the Catholic world of the precepts issued by the late Pope Pius X concerning Gregorian Chant and sacred music, and laments the fact that in some places these precepts have not been put in practice at all, while in others they were at first observed, but gradually music unbecoming to the sacred liturgy was again introduced. He, therefore, ordains the following:

I. In all seminaries and religious houses where men are trained for the priesthood, the training in Gregorian Chant and sacred music should be started from the first years, so that those who have defects of voice may overcome these entirely or at least correct them to some extent, which would be impossible if the training begins only in later years.

II. There should be a short instruction and practice almost daily, and, if this is conducted in the spirit of the sacred liturgy, the lessons should prove a welcome relaxation from the steady grind of studies rather than a burden.

HI. In basilicas, cathedral, collegiate and religious churches special efforts should be made to have choir Oflice or sendee performed with all the dignity and solemnity which correct chanting imparts to that sacred service.

IV. In churches where there is a community of canons or of religious there should be appointed a man well versed in Gregorian Chant, who, after the manner of the ancient *cantor* or *rector chori,* directs the chant. The Gregorian Chant, however, is to be employed in all churches according to the books of Gregorian Chant published in authentic form by the Vatican Press.

V. In the basilicas and major churches specially trained choirs, after the manner of the ancient *schola cantorum,* should be formed for the polyphonic church music.

\ I. Choirs of boys should be had, not only at the basilicas and cathedrals, but also at the smaller churches and parish churches. The

instructor of the choir of men should train them, so that the boys may sing with the men and supply the soprano voices in the polyphonic chant.

VII. The Church prefers the human voice to all instruments in the Sacred Chant, because no instrument, no matter how perfect, can express the feelings of the soul like the human voice, especially since the Chant is mainly a solemn form of prayer and praise of God.

VIII. The organ is the proper musical instrument which tradition has introduced into the church service. Nevertheless, the organ should not be abused by reproducing profane organ recitals in the churches.

IX. The people should not be mere spectators or listeners, but should take an active part in the Sacred Chant, and should be trained accordingly.

X. Under the leadership of the bishops and other local Ordinaries, the secular and religious clergy should endeavor to train the people in the liturgical sacred music; special schools could be formed for that purpose among the various church societies. Those who have charge of educational institutes of young people should pay special attention to church music.

XI. Schools of church music should be encouraged. The Holy Father draws attention to the Pontifical School of Music instituted at Rome by the late Pope Pius X (Apostolic Constitution, December 20, 1928; *Acta Ap. Sedis,* XXI, 33).

(b) Inasmuch as it has happened that some authors and publishers of sacred music have claimed a royalty payment for the use of their compositions in churches, not a few controversies have arisen and disagreeable incidents have occurred because of the claim of such rights. For this reason the Sacred Congregation of the Council issues this Instruction to all local Ordinaries.

(1) The Ordinaries shall, until they have settled the matter of royalties with the authors and publishers, use only those modern compositions of sacred music whose authors and publishers have declared in writing that the execution of their compositions is not subject to royalties of author or publisher. The observance of this regulation cannot deprive the sacred functions of sacred music, for

(a) besides the Gregorian Chant and the classical polyphony, there are many renowned compositions of sacred music from ancient times which have become public property, and they can be freely executed in the churches, provided they are in conformity with the precepts of the Motu Proprio of Pope Pius X, November 22, 1903;

(δ) many of the best modern composers and editors have declared that their compositions of sacred music may be freely used without payment of royalties to author or publisher.

(2) For the choice of such compositions, the local Ordinaries should employ the aid of the Diocesan Committee on Sacred Music instituted according to the rules of the above-mentioned Motu Proprio, and, if necessary, they may have recourse to the Pontifical Institute of Sacred Music at Rome for timely information in that regard (Sacred Congregation of the Council, February 25, 1932; *Acta Ap. Sedis,* XXIV, 72).

# APPENDIX XIX

## On Promoting Vocations for the Priesthood

(Cfr. Canon 1353)

Summary of the letter addressed to all the Ordinaries of the United States by the Sacred Congregation of Seminaries and Universities, approved by the Holy Father, January 25, 1928, and sent to the Ordinaries through the Apostolic Delegation at Washington:

The parochial schools should furnish the vocations for the priesthood (cfr. Canon 1353). The Society for Developing Priestly Vocations *(Opera delle Vocazioni Ecclesiastichc)* should be established in every diocese, because up to the present time many bishops have found themselves obliged to take foreign priests in order to provide for the spiritual needs of their people. By priestly vocations we understand the vocations of those youths who give positive signs of desiring to embrace the priesthood or the religious state, and not the vocations of adults, which are to be looked upon as exceptional cases.

As to preparatory seminaries the following is decided: (1) that preparatory seminaries which now exist in smaller cities shall be changed by degrees into minor seminaries, where students reside both day and night under the watchful care of responsible superiors; (2) in the larger centers, likewise, the preparatory seminary shall be changed into a minor seminary; (3) before any action is taken in the premises, Ordinaries should, through the medium of the Apostolic Delegate, refer each specific case to the Sacred Congregation of Seminaries and Universities.

In major seminaries not only goodness and moral honesty must be instilled into the hearts of the seminarians but also all those virtues which will make the future priest a living image of Our Saviour, Jesus Christ. Discipline and perfect observance of the statutes together with zealous study under the leadership of competent professor's is necessary, but still more there is need of a spiritual director who shall devote all his time to things of God and of the soul and λνΐιο shall never, for any reason whatsoever, interfere with the external discipline of the seminary. His duty is to know the life and character of the seminarians so as to be able to give them prudent and safe advice regarding their vocation. In private conversation and in conferences

he shall teach the seminarians the dignity, the office, and the duties of the priesthood of Christ. He shall teach them mental prayer, select the hook for their meditation in common, and himself assist at this exercise.

As to confessors, the Code prescribes that, besides extraordinarj' confessors, at least two other priests assist the spiritual director in hearing the confessions of seminarians. In seminaries in charge of a religious order, the office of confessor may be exercised by professors, provided they are approved for that purpose by their own superior and by the Ordinary; the usual faculties of the diocese do not make one a confessor of seminarians. In seminaries conducted by the secular clergy, professors are only permitted to be extraordinary confessors.

The various departments of a seminary must be well harmonized so as to achieve a true seminary education. Recreation and play are necessary, but athletics must not be given undue importance, and the students should not engage in athletics before the public on an athletic field.

As to studies it is prescribed: (1) in the literary courses of the seminary the Latin language is to be regarded as the most important element, and it must have precedence over every other subject. The course in Latin must not be purely theoretical. By oral and written exercises, by competitions and the like practical means, the aim of such course should be that the students know it and can use it; (2) students must not be admitted to the study of philosophy and theology who do not possess a sufficient mastery of the Latin language. Students from another institution coming to the seminary must be examined in Latin. A compulsory special course in Latin must be conducted for all who are found not to possess a working knowledge of that language.

As to the study of philosophy and theology, Canons 1365-13G6 must be observed. Lectures on philosophy, theology, and Canon Law, and recitations in these, are to be held in Latin, as also all examinations, especially the ones for admission to Sacred Orders.

Canon Law should be given a more important place in the seminary curriculum than it has held up to date. A knowledge of Canon Law is of daily use in the priest's ministry, and is of special value in the government of a diocese. Professors should have a degree in Canon Law from a university approved by the Holy See.

The professors should receive a salary which enables them to devote themselves to teaching without being distracted by cares of an economic nature. The salary, in a progressively increasing scale, should enable them to get the means to develop and perfect themselves in their chosen field of study, to live with dignity, and to permit them to lay aside something as a provision against sickness or old age.

# APPENDIX XX

## Apostolic Constitution on Catholic Universities

### (Cfr. Canon 1376)

The Holy Father, Pope Pius XI, published this Constitution for the purpose of establishing uniform rules and regulations for all Catholic universities and Catholic faculties at non-ecclesiastical universities throughout the world. The whole issue of the *Acta Apostolicæ Sedis* of July 1, 1931, is taken up with the Constitution (pages 241-262), and with a Decree of the Sacred Congregation of Seminaries and Universities (pages 263-284), which gives specific rules for the enforcement of the Constitution.

In the introductory paragraphs the Holy Father points out how the Catholic Church has from its very beginning favored the progress of human knowledge, for it is one of the fundamental beliefs of the Church that human reason and faith do not and cannot contradict each other, but that on the contrary one helps the other. Then he reminds us of the first great Christian schools of the second century at Smyrna, Rome, Alexandria and Edessa, and of the great Fathers and ecclesiastical writers of the third century who were admired in their day for their secular knowledge as well as for their profound exposition of the teachings of the Old and the New Testament. After the age of the Fathers the schools at the monasteries and cathedrals kept alive the study of arts and sciences. The Catholic schools at monasteries and churches were the only ones that survived the storms of the migration of nations and the invasion of the cultured nations by the barbarians. The Councils at Rome in 1326 and 1353 passed the law that at all bishoprics and in other places where it was deemed necessary diligent care should be taken to appoint teachers and doctors for the teaching of letters and the liberal arts. In the Middle Ages the Church established the great universities which became famous throughout the world. Of the fifty-two universities established before the year 1400 not less than twenty-nine wore founded directly by the Popes, and ten more were founded simultaneously by the kings or princes and by the Popes.

In the course of time, the civil governments withdrew many uni-

versities from the tutelage of the Church, and, though the Church had been to a great extent deprived of her freedom and of financial means, she nevertheless continued to establish schools of higher learning even in the missions in heathen lands. The great libraries of the Church, beginning in ancient days with that of Cæsarea, continuing with the Ambrosian and Vatican libraries, show what great care the Church took to perpetuate the monuments of human knowledge. Wherefore, it is mere malice to charge the Catholic Church with having made efforts to keep the human mind in ignorance. The Church does not fear the persecutor λνΐιο kills her children by the thousands, nor the heresies which bring out the teaching of the Church with greater clarity, but she does fear ignorance of the truth. As early as the second century Tertullian said that the enemies of the Church cease to hate her when their ignorance ceases.

Then the Holy Father lays down the rules and regulations which arc to be followed by all Catholic universities and by the Catholic faculties at universities which are not, strictly speaking, church universities. There are six titles or main headings: (1) General Norms; (2) Persons and Government; (3) Method of Teaching, Curricula, Disciplines and Examinations; (4) Conferring of Degrees; (5) Classrooms, Library, Laboratories, Salaries of Professors and Officials; (6) Transitory Rules.

The last title is of special interest because it decrees when and how the new Constitution is to go into effect, and it also shows the importance that the Holy See attaches to the Constitution, saying that, if the Catholic Universities have not conformed their own Constitutions to the new rules and exhibited them to the Sacred Congregation of Seminaries and Universities before June 30, 1932, they automatically forfeit the right to confer degrees in the name of the Holy See. The entire Constitution becomes obligatory with the beginning of the scholastic year 1932-1933; some articles of the Constitution are to go into force with the beginning of the scholastic year 1931-1932. All laws and customs now in existence and contrary to the present Constitution, whether they be universal or particular laws and customs, even those that are not ordinarily revoked unless mentioned specially and individually, are abrogated by the Constitution. Abrogated are also all privileges granted by the Holy See to physical or moral persons which are contrary to the Constitution (Mav 24, 1931; Acta *Ap. Sedis,* XXIII, 241-262).

# APPENDIX XX

## Regulations by the Sacred Congregation of Seminaries and Universities Based on the Apostolic Constitution Concerning Catholic Universities

The Holy Father says in Article 12 of his Constitution that the ordinances to be published by the Sacred Congregation of Seminaries and Universities for the purpose of properly putting into effect the laws of the Constitution must be observed. The Supreme Pontiff himself confirmed and approved the ordinances, and commanded them to be published.

The Papal Constitution together with the ordinances of the Sacred Congregation arc to be the main portion of the Constitutions of all Catholic Universities. The particular needs of each (according to the circumstances and requirements of the various countries) are to be inserted in the Constitutions, but the Holy Sec demands that nothing contrary to the new Constitution and the new ordinances be inserted in the individual Constitutions of Catholic Universities. The text of the Papal Constitution and of the ordinances is drawn up in such a manner that the special requirements, in addition to the present set of laws and ordinances, can be easily added. If some state regulation conflicts with the present law so that a Catholic University could not without danger of losing its government charter introduce the rules of the Holy See together with the state regulations, a report must be made to the Holy See to get a special ruling on the matter. The ordinances of the Sacred Congregation were issued on June 12, 1931 *(Ada Ap. Sedis,* XXIII, 263-284).

# APPENDIX XXI

## Procedure in Cases of Dispensation from Matrimonium Ratum et non Consummatum

(Cfr. Canons 1962 sqq.)

### I. DECREE

Catholic doctrine declares that "non-consummated marriage between baptized persons or between a baptized and an unbaptized person can be dissolved *ipso iure* by solemn religious profession and also by dispensation from the Holy See granted for a just cause, at the petition of both parties or also at the petition of one of them though the other party be unwilling" (Canon 1119).

In order that the Holy See may grant the dispensation, two things must be proved to its satisfaction: (1) that the marriage has not been consummated, and (2) that a just cause exists for the granting of the dispensation.

Though the granting of the dispensation belongs to the Roman Pontiff exclusively, nevertheless the Holy See usually commits to the local Ordinaries the drafting of the process by which the facts of the non-consummation are investigated and proved and also the existence of a legitimate cause for the dispensation.

Hence, two things of great importance follow, namely:

(1) that the trial of these cases is not a real judicial procedure but rather an administrative one, because the cases are not brought to court by a regular civil or criminal judicial action but by benign concession of the Holy See in acceding to the petition of the suppliant. Nevertheless, since the procedure is necessary in order that the Supreme Pontiff may legitimately use his supreme power of dispensation from a non-consummated marriage with full knowledge of the state of things, it is necessary that the truth be investigated no less conscientiously and carefully than in strictly judicial affairs. Consequently, whatsoever the judge decrees or ordains constitutes a true command which must be obeyed, and anyone who disobeys is guilty of contumacy;

(2) that the judges, witnesses and especially the parties must be firmly convinced that, if the truth of the matter is otherwise than as

represented in the petition—that is, if the marriage has been consummated—and if the truth is not discovered in the process either through the fault or negligence of the tribunal or through the deceit or remissness of the parties and witnesses, the papal dispensation which may have been obtained is absolutely invalid, as devoid of its basis; and since the marriage which is supposed to have been dispensed retains its validity, if the parties should regard themselves as relieved from the matrimonial bond and enter into another marriage before the Church, this new marriage is actually invalid, and thus the putative spouses and any children that they may procreate become involved in practically inextricable chains of grievous evils. A solemn warning to this effect must be given before the oath is administered, and all who participate in these cases must bear this fact in mind especially at the moment when sworn responses, attestations or reports are being given by the parties, witnesses or experts, respectively.

In order that the local Ordinaries may proceed more safely and expeditiously with the drafting of these cases in accordance with the common law, the following regulations have been prescribed. They were submitted to the mature examination of the Most Eminent and Reverend Cardinals of the Sacred Congregation of the Sacraments in plenary' session of April 27, and approved and, subject to the pleasure of His Holiness, declared to be public law. In an Audience of May 7, 1923, granted to the undersigned Cardinal Prefect, His Holiness, Pope Pius XI, approved and confirmed the opinion of Their Eminences, and in order that these Regulations may be properly' and conscientiously observed by all concerned, ordered that they should be promulgated in the *Acta Apostolica,' Sedis.*

Rome, May 7, 1923

M. Cardinal Lega, *Prefect.*
A. Capotosti, *Secretary.*

L. * S.

## II. RULES TO BE OBSERVED

### In Cases of Matrimonium Ratum et Non Consummatum

### CHAPTER I

#### THE COMPETENT FORUM

1. To the Sacred Congregation of the Sacraments alone pertains the investigation into the fact of the non-consummation of marriage and into the existence of a just cause for the granting of a dispensation (Canons 249, § 3, and 1962).

2. No inferior judge may draw up the process in cases of dispensation from a *matrimonium ratum,* unless the Holy See has granted him the faculty (Canon 1963, §1).

3. § 1. If, however, a competent judge has conducted a trial regarding the nullity of a marriage because of impotency, and instead of impotency the non-consummation of the marriage is proved, he shall forward all acts together with the petition of one or both parties for the Apostolic dispensation to the Sacred Congregation, which may use the acts for passing sentence on the non-consummation of the marriage (Canon 1963, § 2).

§ 2. If, however, the proofs of the non-consummation of the marriage obtained in such process are not considered sufficient according to the rules given below, the judge shall complete the proof and forward the complete acts to the Sacred Congregation.

4. Likewise, if in a trial either in the first or second instance on the nullity of a marriage for any other reason (e. g., lack of consent, force and fear, etc.), the nullity of the marriage cannot be established but incidentally a truly probable doubt has arisen concerning the non-consummation of the marriage, then both parties are or either of them is free to present a petition addressed to the Supreme Pontiff for a dispensation from the non-consummated marriage, and, without sending the petition to the Sacred Congregation foi* the purpose of obtaining the usual faculties to hear the case for non-consummation of the marriage, the judge has power, in virtue of this rule or delegation by law, to draw up the process according to the rules here laid down.

# APPENDIX XXI

## CHAPTER II

### WHITTEN PETITION FOR THE DISPENSATION

5. § 1. The married parties to the exclusion of all others have the right to request the dispensation from non-consummated marriage (Canon 1973).

§ 2. Because of the peculiar nature of this process which is regulated by the subjoined rules, it is proper that the married party who asks for the dispensation be called not a plaintiff but a petitioner, and that the other party, unless both join in the petition, be called the party convened.

G. § 1. The petition, which must always be addressed to the Roman Pontili and forwarded to the Sacred Congregation of the Sacraments, shall contain a full and accurate statement of the facts and of all reasons which may have a bearing on the granting of the dispensation (Constitution *Dei miseratione,* n. 15). It must also bear the day, month and year and the name of the diocese in which the petitioner or petitioners live.

§ 2. Care must be taken that the petition contains a genuine narration of the facts, written, if possible, by the party himself and signed by him (cfr. Formulas, η. I).

7. Though any one of the faithful is free to send the petition directly to the Holy See, it is preferable and always advisable to forward it through the proper Ordinary, who must add to the petition his own information on the case.

8. § 1. The proper Ordinary is that local Ordinary in whose diocese the marriage was contracted or in whose diocese the petitioner has a domicile or quasi-domicile; or, if the party petitioning is separated from his partner in marriage illegally (contrary to the rules of Canon Law), competence is vested in the Ordinary of the place in which the party convened has a domicile or quasi-domicile, provided he or she be a Catholic (Canon 1964).

§ 2. The petitioner is, however, permitted to have recourse to the local Ordinary of his actual place of sojourn, who can accept the petition and recommend it to the Sacred Congregation, especially when a number of witnesses who are to be heard live in his diocese.

9. § 1. For the purpose of adding information based on sufficient acquaintance with the facts, the Ordinary may make investigations concerning things and persons, but he may not institute a judicial inquisition properly so called in the form of a legal process with the questioning of the parties or the witnesses (cfr. Formulas, η. II).

§ 2. If it happens that a non-Catholic party seeks the dispensa-

tion, the Ordinary may even then forward the petition to the Sacred Congregation, but he should add necessary and timely explanations concerning the basis for the petition, the personal qualities of the petitioner, and other circumstances appertaining to the affair.

10. § 1. The Ordinary, after having obtained a sufficient knowledge of the facts and persons, should endeavor to get the parties reconciled with each other so as not to sever the conjugal relations, and he should make use of the means and arguments prudence and charity would suggest as most appropriate in the case, unless the circumstances of things and persons show that such an attempt is altogether useless.

§ 2. Not only shall the Ordinaries enlist the services of the pastors for the purpose of reconciling the parties, but the pastors themselves, as soon as they learn of discords and difficulties between married people, should endeavor by prudent advice and exhortation according to circumstances to restore harmony and bar the way to the disruption of the conjugal life.

11. § 1. If from the petition of the party or from the acts of the process that has been started or from other investigations (as mentioned in n. 9) it becomes apparent that the married couple have absolutely avoided the consummation of marriage by the detestable vice of onanism, then the petitioner—or both parties, if both join in the petition—must be informed that the case cannot be considered, or, if begun, cannot be continued.

§ 2. If the petitioner states that he has not in any way been a party to the crime but has merely had to suffer the immoral conduct of the other party, or even if the petitioner admits that he is not free from guilt but proves that now things have gone so far that the restoration of conjugal life is impossible, and that he is sincerely sorry for the past and seriously promises that in any other marriage that he may enter into he will not in any manner whatsoever be guilty of onanism, the judge may submit the case to the Sacred Congregation.

12. If after the receipt of the petition the Sacred Congregation decides to accede to the request, it usually issues letters of delegation to the local Ordinary who endorsed the petition to draw up the case according to the rules here given and other timely instructions.

## CHAPTER III

### CONSTITUTION OF THE TRIBUNAL

13. The Ordinary who has received faculties from the Sacred Congregation to draw up the process concerning the alleged non-consummation of a marriage shall as soon as possible organize the tribunal and

use for that purpose the officials of his Curia, but he may also use other men of his choice, unless the rescript of delegation prescribes otherwise, provided the men chosen have the qualifications required by law for their various offices (Canon 1607, § 1).

14. If the Ordinary desires to use the faculty of subdelegation, he shall subdelegate in writing and state therein that he is delegated by the Holy See with the power to subdelegate, and mention the names of the parties whose marriage is involved in the suit and the instructions, if any, given by the Sacred Congregation.

15. In the same instrument or in a separate written document the Ordinary shall appoint a *defensor vinculi* and an actuary or clerk, both of whom must have the qualifications required by law (Canon 1589, § 1). Unless the Ordinary commands the subdelegate to appoint extraordinary officials, he must employ those of the Diocesan Curia (Canon 1607, § 2; cfr. Formulas, η. V).

16. § 1. Though delegated by the Holy See to draw up the process, neither the Ordinary nor the subdelcgated judge shall conduct a trial in which he has a personal interest by reason of consanguinity, affinity, tutelage or guardianship, intimate friendship, great enmity, or prospect of gain or loss; the same applies if he has formerly been advocate or procurator for one of the parties, according to the precept of Canon 1613, § 1.

§ 2. Under the same circumstances the *defensor vinculi* must decline office (Canon 1613, §2).

17. § 1. The Ordinary who because of a legitimate exception of suspicion does not in person conduct the trial must either subdelegate a judge, if he has the faculty to do so, or refer the matter to the Holy See.

§2. If the exception of suspicion is raised against a delegated judge, the Ordinary shall either rule on the objected suspicion, or appoint another subdelegated judge, if he has the authority, or refer the matter to the Sacred Congregation (Canon 1614, 1-2).

18. At the time of the constitution of the tribunal or at any time during the process, the Ordinary or judge may in the manner prescribed in n. 15 choose other equally fit men who can take the place of the judge and other officials in case those first chosen are impeded or have been legitimately adjudged suspected. Whenever they are to take part in the process, mention shall be made in the acts of the fact of and reason for their subrogation, and it will be well to have them sign as *substitutes* and to refer to them as such in the acts.

19. With the exception of the Ordinary, when he in person acts as judge *{index instructor)* in the drawing up of the process, all who constitute the tribunal must in the first session take oath to fulfill their office faithfully and to keep the secret.

## CHAPTER IV

### OFFICE OF THE JUDGE AND THE OFFICIALS OF THE TRIBUNAL

20. The judge, after having been legitimately appointed to draw up the process, has the duty to institute a judicial investigation concerning the alleged non-consummation of the marriage according to the rules here given. The investigation must concern itself with all things which may prove non-consummation or the contrary and with the legitimate reasons for the dispensation. Arguments for detecting the truth in these cases are mainly: (a) the sworn confessions of both married parties; (b) witnesses *septima manus* on each side (character witnesses, usually seven in number, produced by both parties) and witnesses introduced officially by the court or at the request of the parties, as the circumstances of the case may require; (c) bodily inspection made by experts; (d) authentic documents, even extrajudicial, of every kind (as, for instance, letters), and also judicial acts drawn up in the civil court, in so far as they are to the point; (e) evidence *(indicia)* and presumptions.

21. The judge is the chief moderator of the acts. It is thus his duty: (a) to convoke the tribunal and call the sessions; (b) to summon the *defensor vinculi,* the parties and witnesses to appear in court; (c) to appoint after consultation with the *defensor vinculi* physicians and midwives as experts, if bodily inspection is to be made; (d) to examine the parties, witnesses and experts by proposing to them the questions prepared by the *defensor vinculi* and other questions that he submits officially ; (e) to prescribe all things which he in his prudence and sagacity deems most apt to bring out the truth.

22. § 1. If the petitioner or the party convened make a request for the production of witnesses, or for their examination, or for obtaining any other proof, or for any other processual act whatsoever, the judge shall consult the *defensor vinculi* and then rule by decree whether he admits or rejects the request, and, if the matter is important, he shall briefly explain his reasons for admitting or rejecting it (Canon 1840, §3).

§ 2. The party who considers himself injured by the decree of the judge may ask the judge to revoke or amend the decree (Canon 1841), but there is absolutely no other appeal save recourse to the Ordinary, if he himself does not act as judge.

23. If the party or witnesses who are to be examined belong to another diocese, or are sojourning outside the diocese and cannot without great inconvenience come to the place where the court is in session, the judge shall request the Ordinary of that diocese to constitute a tribunal

and summon the party and witnesses, examine them and demand documents from them, according to the interrogatory prepared by the *defensor vinculi* at the command of the judge and transmitted by the judge himself; the latter may add timely instructions, if the case demands (Canons 1570, § 2, 1770, § 2, n. 3). The Ordinary who receives such a request shall draw up the acts in person or through a delegate, according to the precepts of law, and forward them to the judge.

24. § 1. A party or witness who indeed lives within the diocese but is so far away from the place of the court (whether because of the vast extent of the diocese or in view of the roughness oi' the lack of roads) that he cannot without great loss of time and heavy expenditure attend the place of the court nor can he be reached without the same difficulties by the judge, *defensor vinculi* and actuary, must be examined by the pastor if possible or otherwise by a worthy and qualified priest who lives nearer to the party or witness and is delegated for that purpose by the judge (Canon 1770, § 2, n. 4).

§ 2. To this pastor or other priest are to be sent, together with the letters of delegation, the interrogatories to be employed and pertinent instructions. The delegate, according to the faculty explicitly given him in the letters of delegation, shall employ two assistants—one who must be a priest, to act as *defensor vinculi,* and another (who may be a layman, provided he be of tried fidelity) as actuary—so that the examination of the party or witness may be instituted legally and recorded in the acts.

§ 3. The delegated priest shall take the oath before the actuary' to fulfill his office properly' and faithfully' and to keep the secret; the *defensor vinculi* and the actuary' shall take the same oath before the delegate, and a record of this fact shall be made in the acts.

§ 4. If the delegate cannot get a priest to function as *defensor vinculi,* he shall make note of the fact in the acts, and he shall *ex officio* ask the questions and attend to the other formalities. Likewise, if in some little developed or entirely' undeveloped region he cannot get any' one to act as actuary', he shall make note of the fact in the acts and shall himself put in writing the examination with the necessary notes.

25. In order to form a fair judgment of the value of the attestation of each witness the judge *shall never omit to inquire about the probity and credibility of every one that has been or will be summoned to court,* and for that purpose he shall procure from their pastors testimonial letters, or, if those cannot be obtained, the Curia must obtain other documents. All these shall be carefully' preserved in the acts (cfr. Formulas, nn. XI-XIV).

26. If it happens that the party' convened, or a witness introduced by a party or called officially', or an expert docs not appear in court,

mention is to be made in the acts of the fact of his non-appearance and at least the probable reason for his absence, for example, whether it is because of impossibility or disobedience (called contumacy in the procedure). And if there is question of contumacy, it should be so declared (Canon 1843), and the documents establishing contumacy should be put into the acts (cfr. Formulas, η. XXV). If one who was to be examined has died, the death certificate shall be inserted in the acts unless the death is otherwise sufficiently known.

27. § 1. In the process concerning the non-consummation of the marriage and the reasons advanced for dispensation the presence of the *defensor vinculi* is required, and if he is not summoned the acts are invalid unless, though not summoned, he was actually present (Canon 1587, §1).

$2. If he has been legitimately summoned and was not present at some of the acts, the acts are valid, but they must afterwards be submitted for his examination in order that he may decide and propose, cither orally or in writing, what seems to him necessary' or opportune (Canon 1587, § 2).

28. The *defensor vinculi* has the duty: (a) to be present at the examination of the parties, witnesses and experts; (b) to submit to the judge closed and sealed interrogatories to be opened by the judge in the act of examination and to be proposed by the judge to the parties, witnesses and experts; (c) to suggest to the judge new questions arising from the examination; (d) to examine the articles proposed by the parties and, in so far as may be necessary, to challenge them; (e) to examine the documents exhibited by the parties; (f) to write and adduce arguments for proof of the consummation of marriage; (g) to bring up everything that he may think useful for the defense of the marriage (Canon 1968).

29. The *defensor vinculi* has the following rights: (a) always and at any stage of the trial to inspect the acts of the process; (b) to ask for prolongation of the time set for the completion of certain acts, such extension being at the discretion of the judge; (c) to be informed of all proofs and allegations so that he may be able to exercise his right to challenge them: (d) to demand that other witnesses be introduced, or that the same witnesses be examined again, even after the process has been finished and officially closed, and to adduce new observations; (e) to demand that other acts which he suggests be drawn up unless the judge dissents, in which case, if the Ordinary does not himself act as judge, the *defensor vinculi* has the right to appeal to him (Canon 1969).

30. The actuary who takes the part of a notary or clerk in the process has mainly the duty to attend to the drawing up of the acts in legal form, to guard faithfully that they do not get into the hands of

any outsider whatsoever, to make copies, and to testify to their authenticity.

31. Both the judge and the *defensor vinculi* must take care that a party, witness or expert answers the question put to him in all its parts. If in some instance it be difficult for a party, witness or expert to remember the whole question, it shall be proposed to him in parts in order that the answers may be facilitated and more complete.

32. The judge with the advice of the *defensor vinculi* has the right to assign an assistant to the actuary to help him in writing the acts and in making copies. Like the other officials of the tribunal, this assistant must at the moment of entering into his office take the oath to perform his duty faithfully and to keep the secret.

## CHAPTER V

### BEGINNING OF THE PROCESS AND SUMMONS TO BE ISSUED

33. § 1. If all things cannot be finished in one session, the process is to be divided into sessions. As often as the tribunal is legitimately convened by the judge to perform acts of the process, it is called a session.

§ 2. Mention is to be made in the acts of the decree of the judge by which a session is closed, and in that decree another session is to be fixed or it is to be stated that such session will be announced at the proper time, unless, of course, the process is finished.

34. § 1. In the first session the tribunal is assembled and also completed if some officials are missing. In this session the judge shall announce the following: (a) the letters of the Sacred Congregation of the Sacraments by which the drawing up of the process is committed to the Ordinary; (b) the letters of the Ordinary (unless he in person conducts the trial) by which he subdelegates the office of judge: (c) the appointment of the *defensor vinculi* and the actuary, whether this has been already made by the Ordinary or by the judge in virtue of special delegation, or whether the judge makes the appointment in this session; (d) the appointment of the substitute or alternate officials; (e) the petition of the party introducing the investigation; (f) finally, the taking of the oath according to n. .19 (cfr. Formulas, nn. VI-IX).

§ 2. The above-mentioned formalities are proper to the first session, in which also other acts may be done and the case may be finished, though this usually does not happen. In the other sessions the members of the tribunal are convened for certain acts of the process, and the meetings of the court are to be held on the day and in the place specified in the immediately preceding session, unless the judge prefers

to state that the session shall be held on a day and in a place to be determined and announced later.

35. A few days before the tribunal is to meet, the judge shall summon the person to be examined and also the *defensor vinculi* and the actuary, unless the latter have already been invited in the previous session as stated in n. 34, § 2 (cfr. Formulas, nn. X, XXII).

36. The summons of a party or witness is to be made by letter in the form of an invitation but with the force of a precept. The letter must contain the following: (a) the precept of the judge to appear; (b) the name and surname and domicile of the one who is summoned; (c) the name of the judge before whom he is to appear; (d) the place and the hour of the hearing; (e) the purpose for which he is called, sufficiently indicated at least in general terms (Canon 1715, §1); (f) the signature of the judge and actuary and the seal of the court (cfr. Formulas, η. XV).

37. The summons is to be given to the messenger of the court in a sealed envelope to avoid the danger of publicity, and the messenger shall privately and in person deliver it to the person summoned. A copy of the summons is to be kept in the acts of the case (Canon 1716). If for reason of distance or other cause the summons cannot be conveyed by messenger, a copy may at the order of the judge be sent by registered mail with return receipt or transmitted in some other way which according to the laws and conditions of the particular place is safest (Canon 171!)). If the messenger has delivered the summons in person, he shall make report of the fact to the judge by noting it at the bottom of the copy of the summons kept in the acts of the case and signing his name (cfr. Formulas, η. XVI). If, however, the notification has been made by mail, the return receipt shall be preserved in the acts.

38. § 1. If after diligent inquiry it remains unknown where the party convened or a witness is staying, a summons by edict may take place if the gravity of the matter demands it. The messenger accomplishes this by attaching a copy of the summons in the manner of an edict to the doors of the Curia to be left there for a length of time to be determined at the discretion of the judge, and by publication in some periodical. If both cannot be done, cither suffices (Canon 1720; cfr. Formulas, η. XXIII).

§ 2. If the person summoned refuses to obey, the judge shall consider whether the summons should be repeated (Canon 1843, §2), or whether it is preferable to use other more opportune and efficacious means, as for instance the intervention of a friend or a person of great authority. It will in most cases be prudent to refrain from employing coercive measures to overcome contumacy.

§ 3. The judge should also consider whether the non-appearance

of a party or a witness can be compensated for by other witnesses who have knowledge of the facts about which the former were to be questioned.

## CHAPTER VI

### OATH OF THE PARTIES, WITNESSES AND EXPERTS, AND THEIR EXAMINATION

39. Before the judge questions anyone summoned to court, he shall demand that such person take the oath, while touching the Book of the Holy Gospels, that he will tell the truth (cfr. Formulas, nn. XVIH, XXIX). If the person summoned refuses to make his depositions under oath, and if the judge thinks that his attestations are useful for ascertaining the truth, he may accept them, but he must make mention in the acts of the refusal to take the oath and why it was refused.

40. The judge should remind the party, witness or expert, if needs be, of the sanctity of the oath and the very grave crime that those commit who violate their oath, and he should draw attention especially to the gravity of the oath because of the subject-matter of the trial and the terrible effects of perjury, as was pointed out in the Decree prefixed to these rules. If the judge thinks it advisable in view of the character of the persons admitted to the oath, he should remind them of the penalties of the Church against perjury', namely: (a) personal interdict, if the perjurer is a lay' person; (b) suspension, if he is a cleric (Canon 1743, § 3). However, the judge shall not impose these penalties without first consulting the Ordinary.

41. The examination is to be made by the judge, who should be assisted by the *defensor vinculi* and the actuary'. In the examination the questions are not to be asked by anyone but the judge, or by him who takes the place of the judge. Wherefore, if the *defensor vinculi* desires additional questions to be put to a witness, he shall not question the witness directly but propose the questions to the judge or his delegate (Canon 1773, 1-2).

42. The questions to be put to a witness are divided into *general* and *particular* ones. The former have reference to the general circumstances of a person, such as his name, surname, origin, age, religion, state of life, domicile, and relation to the parties in the case. These questions are to be put always and to every witness without distinction, unless the judge thinks it advisable in a particular case to omit one or other. The particular questions arc asked for the purpose of ascertaining the truth concerning the fact of non-consummation of the marriage and the reasons for a dispensation. Furthermore, a witness is always to be asked the source of his knowledge, namely', when and how ho got the knowledge of what he asserts (Canon 1774).

*43.* § 1. The questions should be brief, not suggestive, and not embracing many things; they must pertain to the case before the court, must be adapted to the intelligence *of* the witness, and must be expressed in the vernacular (Canon 1775).

§ 2. The parties, witnesses and experts should give their answers orally. They should not be informed beforehand of the questions to be put to them, nor should they be permitted to read their depositions, unless in some particular case the judge thinks it proper to permit a person questioned to read some important document which may confirm his oral testimony or help his memory (Canons 1776-1777).

*44.* $1. The answers of the parties, witnesses and experts are to be put in writing by the actuary immediately, not only in substance but word for word (Canon 1778).

§ 2. *If* the words cannot be put down either because the person speaks too rapidly or because they are improper or not logically connected, the judge shall dictate the answer to be inserted in the acts.

$ 3. The actuary should not repeat in his record the questions which are already put in writing, but he shall report the answers and designate them by the numbers given to the corresponding questions. Questions added officially he shall report together with the answers thereto.

45. The actuary shall make an accurate record in the acts of every occasion when the oath is given, and generally of all things worthy of note that happened during the examination (Canon 1779).

46. The testimony that has been given orally by a party, witness or expert and put in writing by the actuary shall be read to him before he leaves the court room, and permission is to be given him to add, suppress, amend or vary his testimony. When he has answered that he has nothing further to add or to change, he shall again take the oath that his statements are true and that he will keep the secret (cfr. Formulas, η. XX). Then he shall be ordered to sign the testimony, and after his signature the signatures of the judge, *defensor vinculi* and actuary' are to be added (Canon 1780, 1-2).

47. § 1. The petitioning party or the party convened may be called again for examination, at the instance cither of one of the parties or of the *defentor vinculi, or* officially by the judge after consultation with the *defensor vinculi.* The parties may also be confronted in court if it seems expedient and all danger of quarrel and scandal be removed.

i 2. Likewise the witnesses and experts rnay be recalled if the parties or the *defensor vinculi* requests this, or if the judge orders it *er officio,* the *defensor vinculi* being consulted. They may be questioned about the testimony already given or about new' facts or questions arising from the process (Canon 1772, H 2-3).

§ 3. Whenever the parties request the reexamination of some person, the judge shall after having consulted the *defensor vinculi* rule by decree whether the request is to be rejected or admitted, provided that when he permits the reexamination all danger of collusion or bribery be eliminated (Canon 1781).

§ 4. When a party, witness or expert is submitted to a second examination, the rules which are given below (nn. 68, §2, 69) for the examination of the parties and witnesses are to be observed, *congrua congruis referendo.*

48. In the drawing up of the acts or the written record of what is done and decreed in the sessions of the tribunal, the Latin language shall be used; the summons, oath of the parties, witnesses and experts, interrogations and answers, and also the reports and opinions of experts may be given in the vernacular.

49. Documents that are not written in Latin, Italian or French should be translated verbatim into Latin. Likewise, acts which are not written in Latin, Italian or French shall be translated authentically into one of those languages. If for the purpose of translation an interpreter has to be employed, he shall be chosen by the judge after consultation with the *defensor vinculi,* and must take the double oath to discharge his oilice faithfully and to keep the secret, like the other officials of the tribunal (cfr. Formulas, η. XXI).

## CHAPTER VII

### EXAMINATION OF THE PARTIES

50. § 1. The party who presented the petition and who holds the place of plaintiff in the case is to be heard first. The judge, after having tendered the oath, shall ask him the questions drawn up by the *defensor vinculi* and given to the judge in a scaled envelope. 3 he judge may add other questions *ex officio,* if he deems it necessary or useful for a more accurate exposition of the truth. In drafting and proposing these questions, the examples in the Formulas should be consulted.

§ 2. If both married parties ask for the dispensation, it will in most cases be best first to examine the wife and inquire with special care into the reasons why both parties consent and agree to ask for the dispensation.

§ 3. Inasmuch as in these circumstances collusion is very much to be feared, the truth shall be carefully investigated by witnesses summoned *ex officio.*

51. After the general questions, the particular ones, prudently varied

according to circumstances, shall be proposed to the wife, whether she be petitioner or party convened (cfr. Formulas, η. XIX).

52. The same questions may be proposed to the husband, whether he be petitioner or party convened, and other questions more pertinent to the particular circumstances may be added (cfr. Formulas, η. XXIV).

53. If the wife alleges that the husband is impotent, whether absolutely or relatively, the husband should be requested to submit to bodily inspection, which is to be conducted according to the sacred canons and the subjoined regulations contained in n. 84.

54. Unless it be otherwise known, the party should always be asked to tell when and from whom he or she heard that non-consummated marriage can be dissolved by dispensation of the Roman Pontiff.

55. § 1. If the answers of the party who is examined in the second place differ greatly and in many details from the answers of the other spouse, new questions are to be proposed by the judge (either *ex officio* or at the instance of the *defensor vinculi)* to clear away any difficulty and doubt, and the judge may, according to the nature of the case and as prudence suggests, tell or not tell the second party that his statements contradict those of the other spouse.

§ 2. Whenever the gravity of the matter demands it, the judge after consultation with the *defensor vinculi* should, either *ex officio* or at the instance of the other party or of the *defensor vinculi,* call a party for reexamination according to the precept of n. 47, in which examination new questions are to be proposed.

§ 3. If the answers in the new examination do not altogether settle the matter (i.e., explain the contradiction), but seem to open the way for further investigation of the truth, the party who was first examined may bo recalled for reexamination, in which the answers of the other spouse may bo proposed. The parties may also be confronted in court with due observance of the precept of n. 47.

56. § 1. The judge must never omit to question the parties about the existence of the reason advanced for asking the dispensation.

§ 2. The judge shall also interrogate similarly the witnesses who seem very likely to have some knowledge regarding this same matter.

57. § 1. Before the examination is finished and after those things which are prescribed in n. 46 have been done, the judge shall ask the party to produce the witnesses *septimæ manus* (seven character witnesses), and also others, if he has any, who know about the reason for requesting the dispensation.

§ 2. If the other party is *contumax* (i.e., refuses to appear in court), the judge should urge the petitioner to designate witnesses who belong to the family of the other spouse, or live in his neighborhood or know his domestic affairs, and who can probably give useful testimony.

# APPENDIX XXI

## CHAPTER VIII

### INTRODUCTION OF WITNESSES AND OTHER PERTINENT PROOFS

58. In these cases both parties must introduce the witnesses called *septimce manus* who are related to him or her by blood or marriage—or, if such cannot be produced, neighbors of good reputation or otherwise persons acquainted with the affair, who can swear to the probity of the married couple and especially to their veracity in the matter that is before the court (Canon 1975, § 1).

59. The testimony *septimce manus,* as the term itself indicates, must be furnished by seven witnesses introduced by each party (i.e., seven for each). If so many witnesses cannot be had, fewer will suffice, but in the acts mention must be made of the reason why seven could not be produced for each party.

60. § 1. The testimony *septimce manus* is an argument of credibility which adds strength to the depositions of the married couple, but it does not have the force of full proof unless it be supported by other circumstances and arguments (Canon 1975, §2).

§ 2. Because of the fact that the witnesses *septimce manus* furnish arguments of credibility, they deserve all the more credence if they themselves give strong proof of their own probity. They are to be considered as witnesses testifying of their own knowledge, and therefore deserve very great faith if they testify that at a time when there was no controversy about the matter (cfr. below, n. 70) they heard from the married couple or from very near relations that the marriage remained non-consummated.

61. The judge may add other witnesses *ex officio* to the witnesses *septimce manus,* and he must do so if a party did not introduce witnesses *septimce manus* or introduced only three or four, or if the witnesses, though seven or more for each party, do not suffice to establish the truth of the matter at issue.

62. The introduction of witnesses *ex officio* must not be omitted when from the acts of the case it has been ascertained that there are other persons who have a knowledge of the matter in controversy or persons who in other respects can give useful testimony.

63. § 1. If the parties or either of them ask that the names of the witnesses introduced by the other party or *ex officio* be made known to them, the judge after consultation with the *defensor vinculi* may by a decree grant the request, provided all danger of bribery and collusion is excluded and that there is no other obstacle. The decree of the judge is to be recorded in the acts.

§ 2. The judge, however, may delay the publication of the names,

if circumstances demand, until after the witnesses have made their depositions.

64. § 1. The proof deduced from the bodily inspection of the wife is in itself always required unless it appears altogether useless from the circumstances (Canon 1976; cfr. n. 85), or unless such proof cannot be had because the woman is a widow or is known to have lost her bodily integrity.

§ 2. If a party, notwithstanding the decree of the judge, absolutely refuses to allow the bodily inspection, it must be judged from the circumstances what reason there is for the refusal, and whether the lack of this proof is to be supplied by other arguments or proofs.

65. Besides the physical proof which tends to complete the proof furnished by the statements of the parties, of the witnesses *septima manus* and of other witnesses, there are also other proofs and corroborations. Documents are classed as proofs; indications and presumptions as corroborations.

## CHAPTER IX

### EXAMINATION OF THE AVITNESSES *SEPTIMAE MANUS*

66. The examination of these witnesses is to be begun with those introduced by the petitioner: first arc to be heard the nearer relations, who are presumed to know' more about the matter, and afterwards non-relatives, such as servants and neighbors, if any such are introduced. This order in the hearing of witnesses need not necessarily be observed, and the judge is free to reverse it. If a witness who was introduced (in the petition for the hearing of witnesses) has died, or docs not appear in court, the precept of n. 26 is to be observed. If a witness cannot come to the place where the court sits (but otherwise is willing to testify), he shall be heard in the manner prescribed in nn. 23-24.

67. In the examination of the witnesses *scptimcc manus* the judge shall first tender the oath, then ask the general questions, and finally the particular questions drawn up by the *defensor vinculi* and given to the judge closed and sealed in the very session; they may be the questions given in the Formulas, η. XXVII.

68. § 1. Before a witness is dismissed from court, the answers of the spouse who introduced him as witness are to be read to him in order that he may state whether he believes that the assertions made in the deposition are true and worthy of belief.

§2. If the judge docs not think it proper or useful to read the whole deposition, either because it contains things which the party very likely would not want the witnesses to know or because there may be danger of collusion, he may read part of it or nothing at all, but he has

the right to propose *ex officio* questions that have reference to the party's testimony, or he may demand of the *defensor vincuh* that in his interrogatory he put questions concerning the testimony of the party. The precept of n. 47 applies also to these witnesses.

69. After the examination is finished, the testimony is read to the witness and he is to be asked whether it fully agrees with what he had in mind; if he requests changes or additions to be made, they must be made. Then he takes the twofold oath (in accordance with n. 46), signs the testimony, and after him sign the judge, the *defensor vinculi* and the actuary.

70. In the examination of these witnesses, when they make some statement which directly touches the merits of the case, exceptional care should be taken to ascertain *from xchat source, how* and *when* they got the information in order that one may know whether they got the knowledge at a time when there was no controversy about the matter (Canon 1774). The extrajudicial statements of the parties are indeed of great help towards the solution of a case when they were made at a non-suspecting time, that is, when there was not even a thought about introducing this matter in court, and when there were no other reasons to conceal the truth or to state a falsehood.

## CHAPTER X

### INTRODUCTION OF WITNESSES, BESIDES THOSE *SEPTIMAE MANUS,* AT THE INSTANCE OF THE PARTIES OR BY THE JUDGE *EX OFFICIO*

71. § 1. The testimony of the witnesses *septimæ manus* furnishes an argument of credibility (Canon 1975, § 2). If therefore other witnesses are to be introduced to complete the proof, they should be witnesses testifying regarding matters of their own knowledge rather than to the credibility' of the parties.

§ 2. These witnesses arc introduced either *ex officio* by the judge after consultation with the *defensor vinculi,* or at the instance of the latter or of the parties.

72. Whenever there is justified fear of collusion between the parties, or between the witnesses *scptimcc manus* and the party' introducing them, or when the testimony *scptimcc manus* appears insufficient unless the truth is established by' other arguments and from other sources, witnesses must be summoned *ex officio.*

73. If the physical examination neither proves impotency nor excludes it, or if it proves that the physical integrity of the wife is gone but does not exclude the possibility that the lesions may have been caused otherwise than by the natural use of marriage, the judge should

consider whether it may be feasible to complete the proof by witnesses or other arguments.

74. The interrogatories for these witnesses as well as any others arc to be drawn up by the *defensor vinculi* and given to the judge in the manner prescribed above; the judge has the right to propose additional questions *ex officio*.

## CHAPTER XI

### DOCUMENTS

75. The attestations are better explained and corroborated by documents, in so far as such elucidation is necessary. Documents are either *public* or *private*. In these cases public documents include, first of all, the authentic certificate of the marriage taken from the parochial records, whenever this certificate is required in the drafting of the case. The acts and sentences of the civil court, if some matter concerning the marriage now before the ecclesiastical tribunal was agitated before that court, also come under the name of public documents. Among the private documents are usually included letters of the married couple to each other or to third persons and written attestations made in favor of one or the other party.

7G. Both kinds of documents arc at times voluntarily exhibited by the parties, but at times it will be the duty of the judge to demand them by his authority and to question the parties or the witnesses concerning them in the examination. If a party or a witness refuses to exhibit a document, the judge shall, after consultation with the *defensor vinculi* or at the latter's request, decide by decree whether and how the exhibition of such document should be made (Canon 1824).

77. § 1. No documents deserve consideration unless it is certain that they are authentic and genuine.

§2. A private document (e.g., a letter, etc.) proves for or against its author in the same manner as an extrajudicial confession or admission, the weight of which is to be judged from the circumstances. Generally speaking, those documents derive their importance from the time at which they were written, according to the rule of n. 70.

78. If a document of some importance is presented in the case but lacks the proper formalities to lend it credence, the judge shall endeavor, *ex officio* or at the instance of the *defensor vinculi* or of the parties, to have the necessary formalities supplied lest the case be deprived of the help that such document may give.

# APPENDIX XXI

## CHAPTER XII

### INDICATIONS AND PRESUMPTIONS

79. § 1. As marriage is not presumed to have remained non-consummated, the alleged non-consummation of the marriage must be carefully investigated in every case.

§ 2. The fact of the cohabitation of the married couple constitutes a *presumption of laiv* that the marriage has been consummated (Canon 1015, § 2).

80. The non-consummation of marriage usually arises from the following causes: (a) lack of true consent to the marriage; (b) force and fear; (c) aversion and hatred begun from the very start of the conjugal life; (d) impotency, either absolute or relative.

81. The external manner of conjugal life and the circumstances from which one has a right to argue to the cause of the non-consummation of the marriage furnishes that species of proof which is called *proof from indications and presumptions.* Indications and presumptions are divided into *light, grave* and *very grave,* according to the lesser or greater connection they have with the cause of the non-consummation of the marriage.

82. Facts and circumstances which indicate one or other of the causes mentioned in n. 80 create a presumption in favor of non-consummation.

83. It is the duty of the judge and of the *defensor vinculi* by suitable questions to elicit from the witnesses information regarding the cause to which the non-consummation is to be attributed. This is a matter of great importance on which all care must be expended, for the facts and circumstances which indicate and determine one or other of the aforesaid causes strongly corroborate the proofs collected from other sources.

## CHAPTER XIII

### BODILY INSPECTION

84. § 1. In cases of non-consummation the bodily inspection of the wife, made by experts, as explained below, is required, unless from the circumstances such examination is evidently useless. In the latter case the process shall be completed from moral arguments supported by circumstantial evidence or other proofs, according to n. 64.

§ 2. The bodily inspection of the husband, which in many cases adds greatly towards safely establishing the fact of non-consummation, shall not be omitted when the non-consummation is attributed to his impotency, absolute or relative, and when there is no full proof of the physical integrity of the wife from other sources.

§ 3. In these cases, if the husband refuses to submit to the bodily inspection, the probable reasons for the refusal are to be recorded in the acts, and supplementary proofs, if possible, are to be obtained.

85. In case of doubt whether the bodily inspection should be made or omitted, the decision rests with the judge after consultation with the *defensor vinculi,* but the latter has the right to object to the decree of the judge according to nn. 22 and 28.

86. The bodily inspection of the wife is to be omitted, because useless, in the folowing cases: (a) if marriage could not be consummated because there was neither time nor place nor means to consummate the marriage; (b) if it is already known that the woman has lost her virginity (Canon 1976).

87. The judge has the right to choose or appoint experts, physicians or midwives, after consultation with the *defensor vinculi* (cfr. Formulas, η. XXVIII). Those should preferably be appointed who not only possess testimonials of fitness from the civil authorities but are also considered very efficient in the practice of their profession and have an excellent reputation for honesty and religion. Those who according to Canon 1757 are not qualified as witnesses may not be chosen as experts. Excluded also are those who find themselves in the circumstances mentioned in Canon 1613, § 1, if on account of consanguinity or affinity with the parties, or on account of their friendship or enmity to them, or on account of the gain or loss that might accrue to them from the decision of the case, suspicion as to their probity or their opinion in the case may arise.

88. Those also are not to be employed as experts who have performed the physical inspection of the spouses privately concerning a fact on which the petition for the declaration of non-consummation is based. It is, however, permitted and it is proper to introduce them as witnesses (Canon 1978). It should never be omitted, in so far as this can be done, to insert their written attestations in the acts as documents.

89. § 1. For the inspection of the woman two midwives who can furnish legitimate testimony of their skill and who have proper experience in their profession are to be appointed *ex officio.* The woman who is to be inspected has the right to demand that in place of the midwives two physicians be employed, who also arc to be appointed *ex officio.* The Ordinary may, if he deems it necessary after consultation with the *defensor vinculi,* appoint two physicians, especially if there is some suspicion of fraud having been used in attempting through artificial means to repair the lesions of the party (Canon 1979, § § 1-2).

§2. It at times it becomes impossible or very difficult, because of special local circumstances, to find two experienced midwives or two physicians, it is permissible that the inspection be done by one expert

and one midwife (efr. Instr. S.C.S.O., anno 1883, *Quemadmodum matrimonii fœdus,* tit. VI, art. 5, n. 49). If because of such circumstances not even that can be accomplished, it is permissible that the inspection be performed by two married women of good character and advanced age and qualified for the purpose. Whenever the inspection has been performed by two such women, their report of the examination should be submitted to one or two experts in this matter who live in the same place or elsewhere, in order that they may give their opinion concerning the conclusions arrived at by the two women.

90. In the inspection of the woman made either by experienced physicians or by midwives the following points are to be observed: (a) the rules of Christian modesty must be fully observed; (b) a respectable matron appointed *ex officio* shall always assist; (c) th? inspection is to be performed by each physician or midwife separately; (d) in the examination a decent method and proper precautions are to be employed, as science and prudence will suggest, and in the report it must be stated what were the methods employed; (e) each physician or midwife is to make a separate and independent report within the space of time fixed by the judge; (f) the judge may submit the reports made by the physicians or midwives to the examination of another physician if ho deems it advisable (Canons 1979-1980).

91. As assisting matron should be chosen a woman advanced in years, well known for her religion and honesty, and of such a character that she could not be easily bribed or deceived, λνΐιο understands her duties and the gravity of the affair, and who can give an account before the tribunal of having properly fulfilled her office. She is to take the oath before she assists (cfr. Formulas, η. XXIX).

92. The manner of making the inspection shall be as follows. The judge shall appoint the place where it is to be done, and he shall order that the woman be given a bath in tepid water for not less than half an hour. If the appointed experts, physicians or midwives, arc of the opinion that the bath in some case is either entirely useless or even harmful, the judge, after considering the circumstances and consulting the *defensor vinculi,* shall decide as he thinks best in the case. The experts should conduct their examination in such a way that they can report on every single sign that points in favor of or against the woman's bodily integrity. They should also carefully consider whether perhaps an apparent integrity has been created by clever manipulation of the medical art.

93. § 1. The experts, physicians or midwives, should make a written report independently of each other (efr. n. 90, e) concerning the conclusions deduced from the inspection. Afterwards each one separately shall be questioned by the judge according to the interrogatory or

articles prepared in advance by the *defensor vinculi,* and to these questions they shall make answer on oath. The examination is to be concluded with observance of what is prescribed in n. 46. The *defensor vinculi* shall prepare special articles and questions based particularly on the reports exhibited by the experts (Canon 1981; Formulas, nn. XXX, XXXII). The experts must clearly indicate the manner and means employed in making the inspection and the arguments on which chiefly they base the opinion arrived at (Canon 1801, § 3).

§ 2. If the experts disagree either in reference to what they have observed in the inspection or in the final conclusion, the judge may submit the report of one expert to the judgment of the other in order that he may explain the reason for the contradiction; and, if necessary, the judge may permit them to make a joint inspection and give a joint opinion. But in that case each one is to be questioned separately (cfr. Canon 2031, n. 5), unless the judge deems it best to appoint a greater expert, who is to give an opinion on the report of the first experts; the latter may also, if necessary, be permitted to make a new inspection or to employ different experts to make a new inspection (Canons 1802-1803).

94. Finally, the matron who assisted at the inspection is to be summoned to court and, after having taken the oath, is to be questioned concerning the matter (cfr. Formulas, η. XXXI).

95. If the man is to be inspected, two experienced physicians must be appointed *ex officio* (Canon 1979, § 1). After they have taken the oath to fulfill their duty faithfully and to keep the secret (cfr. Formulas, η. XXIX), they are to be admonished to employ only licit and decent means in the examination and to report according to the rules of medical science whether there are indications or arguments which seem to prove or disprove virile potency.

## CHAPTER XIV

### CONCLUSION OF THE PROCESS

96. § 1. The judge shall not decree the process closed until the *defensor vinculi* has declared that he has no further investigations to make; the judge shall also inquire of the parties whether they have anything further to say.

i 2. Before the judge issues the decree concluding the case, he shall study attentively the acts of the case, compare the depositions of the parties and the witnesses with one another and with other facts that have come up in the process, and see whether there is anything incomplete and contradictory or ambiguous. If he finds anything of this

kind, lie shall, after consulting the *defensor vinculi,* again summon the parties, or the witnesses, as may be necessary, and by appropriate questions obtain what is to be supplied or explained. He may also endeavor to obtain supplementary statements and declarations by summoning witnesses *ex officio.*

§ 3. Before the *defensor vinculi* agrees to the conclusion of the process, he should examine the acts and consider whether something further has to be done to complete the case according to the rules here given (cfr. Formulas, η. XXXIII).

97. § 1. After the process is closed, the judge shall not make publication of the process or give sentence on the non-consummation of the marriage and the reasons for dispensation (Canon 1985).

§ 2. Nevertheless, if after the conclusion the parties or one of them requests to be shown either the names of the witnesses or their answers or some document, and this request is made for a grave reason, the judge after consulting the *defensor vinculi* and also the party concerned, if there be such, may grant the request within the limits of proved necessity, provided all danger of collusion or bribery be excluded. Explicit mention is to be made in the acts of the publication of the process or any part of it.

98. § 1. After the process has been closed, all acts are to be given into the hands of the *defensor vinculi,* who must make his criticisms on the case and especially inquire whether the rules here given have been observed in the drawing up of the process.

§ 2. Thereafter all the facts are to be sent to the Sacred Congregation of the Sacraments, with the written opinion of the bishop (Canon 1985)—or, in the vacancy of the see, of the vicar capitular or the administrator apostolic or other official who legitimately holds the place of the bishop (Canons 429, 431)—and the opinion of the *defensor vinculi.*

99. The present rules for drawing up the process on non-consuinmated marriage must always be faithfully observed, and, if at times a departure is to be made for good reasons, the judge shall give an account of the motive in the acts in order that the reason for the non-observance may be known.

100. The observance of these rules is entrusted especially to the Ordinaries, and they have the duty to see that the tribunals constituted by them do not deviate therefrom. The Ordinaries are therefore at liberty according to their good judgment to examine the acts at any stage of the process, to give advice and admonitions to the officials, and to remove them for a grave reason, even the subdelegated judge; they shall consult the *defensor vinculi* before removing any official. If in some case the bishop has to resort to these measures or if some other

difficulty occurs, the Holy See shall be informed of the matter when the acts are forwarded.

101. § 1. The judicial acts, both the *acta causes* and the *acta processus* (cfr. Canon 1642), shall be sent to the Sacred Congregation in an authentic copy with an index of all acts and documents, according to the rule of Canon 1644.

§ 2. If, either because of the expense entailed or for any other reason, it is very difficult to forward an authentic copy to the Sacred Congregation, the Curia is permitted to send the original acts, provided all the precautions possible according to local conditions are employed for the safe transmission of these documents.

## CHAPTER XV

### PAPAL RESCRIPT OF DISPENSATION AND ITS EXECUTION

102. The dispensation from the *matrimonium ratum et non consummatum* is granted directly by the Supreme Pontiff himself, and is issued by rescript *in forma gratiosa,* signed by the Cardinal Prefect of the Sacred Congregation of the Sacraments or by another Cardinal taking his place and by the Secretary or Under-Secretary of the Sacred Congregation.

103. Because of the form in which the dispensation is issued, the rescript takes effect at that moment of the day of audience at which the Supreme Pontiff grants the dispensation, provided that at that moment the petition is true both as to the non-consummation of the marriage and the reasons for the dispensation (Canon 41). If one or other of these conditions is lacking, the rescript does not benefit the petitioner because it is vitiated by either *obreptio* (positive falsehood) or *subreptio* (suppression of the truth that had necessarily to be expressed).

104. In the rescript of dispensation from the *matrimonium ratum et non consummatum* is contained, in virtue of Canon 1053, the other dispensation, it perchance it be necessary, from the impediment arising from adultery with the promise or the attempt of marriage; this dispensation is granted though not expressed.

105. The rescript of dispensation, expenditures having been paid, is given or mailed to the party asking for and obtaining it, and it must be exhibited to the Ordinary (Canon 51). Nevertheless, the Sacred Congregation will give *ex officio* an authentic copy of the rescript directly to the Ordinary.

106. On being informed of the dispensation by authentic document, the Ordinary shall as soon as possible command the pastor of the place

where the marriage was contracted and the pastor of the place where the man and the woman were baptized, to make an annotation of the dispensation in the marriage record and in the baptism register (Sacred Congregation of the Sacraments, May 7, 1923; *Acta Ap. Sedis,* XV, 392-413 ).

## III. RULES TO BE OBSERVED In Processes Concerning Non-Consununated Marriage to Avoid the Deceitful Substitution of Persons

In drafting processes concerning non-consummated marriage, it may sometimes unfortunately happen that a person deceitfully presents himself in court to testify (or to submit to the bodily examination of the physicians appointed as experts in the case) in place of the party called to court or of some other person having part in the process. In large cities especially precautions against this evil must be taken because of the easy and frequent change of residence from place to place.

Solicitous of the sanctity of the great Sacrament of Marriage and fearing lest the judicial investigation may serve rather to perpetrate frauds than to discover the truth, this Sacred Congregation decrees that the following rules be observed in those processes:

1. § 1. The officials who are in charge of the conduct of the process must diligently inquire about the identity of the persons who appear before them in court, and especially of the petitioner and the party convened. For the purpose of identification, they shall demand a legal document to that effect from the ecclesiastical or the civil authorities, and either the original or an authenticated copy shall be put into the acts of the case.

§2. If the authentic copy cannot carry all the marks of identification usually found in the original (for instance, a photograph of the person), it must nevertheless have those things which unmistakably distinguish one person from another.

§ 3. If such a document cannot be had, the identity of the person must be ascertained through other equally convincing documents or witnesses, and those documents or attestations are to be preserved in the acts.

§ 4. If, however, the judge, or the *defensor vinculi,* or the actuary knows full well the person of the petitioner or of the party convened, there is no need of a document of identification, but they must in the acts of the case testify to the sure knowledge they have of the identity of the person.

2. Tn the continuation of the judicial procedure the same prccau-

tions must be employed concerning the identity of the witnesses, experts and obstetricians.

3. The same precautions must be more carefully observed, in so far as the character of the persons concerned may require, when the petitioner, or the party convened, or witnesses, or experts are by commission of the original court to be examined in the court of another diocese.

4. § 1. Whenever the petitioner or the party convened is to undergo the physical examination, the documents concerning his or her identity already contained in the acts of the case shall either in the original or in authentic copy be given to the experts or obstetricians in order that they may be very certain of the person that is to be examined.

§ 2. If the experts, obstetricians, and matron who take part in an examination personally know the persons to be examined so well that it is superfluous to transmit to them the document of identification, a statement to that effect is to be added to the acts of the case.

§ 3. After the examination, when the experts or obstetricians are questioned in court concerning the physical examination, the person who was examined shall also be summoned to court in order that the court may question him concerning his identity.

§ 4. If the person refuses to or cannot appear in court, the questions concerning the proof of the identity of the person examined must nevertheless be put by the judge, who takes into account the report of the experts and the documents of identification which were for that purpose given to the experts, as was stated in § 1.

5. Such precautions must be observed even more rigidly, as the case may require, when the physical examination is by order of the original court conducted by the Curia of another diocese.

6. It may happen that because of the omission of some precautions or failure to observe them properly, or because of their insufficiency, the deceitful substitution of one person for another takes place and is discovered afterwards:

1°. while the process is still going on;
2°. after the process has been closed but before it is sent to Rome;
3°. after it is sent to Rome.

1°. § 1. If discovered while the process is going on, the judge shall inquire whether the petitioner or the party convened procured the substitution. If the petitioner procured it, and the party convened does not object, the judge after having consulted the *defensor vinculi* shall decide that the former has forfeited the right further to prosecute the case, and he shall give that declaration in an explicit decree to be put into the acts of the case.

§ 2. If the party convened raises objection (against the

deceit of the petitioner), the judge after having given the *defensor vinculi* an opportunity to express his opinion shall decide whether and with what precautions the process is to be continued.

§ 3. If the party convened has procured the deceitful substitution, the judge, after hearing the petitioner and the *defensor vinculi,* shall decide what is to be done in the case so as completely to eliminate the effects of the fraud and to establish the truth of the facts considering all the circumstances of the case.

§ 4. If the petitioner and the party convened conspired in the deceitful substitution, the judge shall declare and decree that the processual investigation (concerning the non-consummation of the marriage) can proceed no further, and he shall bring it to a close.

§ 5. If the petitioner is sorry for his fault and asks pardon and adduces new arguments begging that the case may be continued, the judge, after having consulted the *defensor vinculi* on the matter, may grant the request and decree the prosecution of the case especially in view of the new arguments advanced, provided all danger of renewed fraud be excluded.

§ G. If the deceitful substitution was not done by cither petitioner or party convened but by some other person, the judge with the advice of the *defensor vinculi* shall order what is to be done to offset the effects of the fraud, lest the truth of other attestations or the whole process come to naught.

2°. § 1. If the fraud was detected after the closing of the case but before it was sent to Rome, the Ordinary after hearing the judge and the *defensor vinculi* shall decide whether the whole process or only part of it has been invalidated by the deceitful substitution, and whether it is expedient to remedy the defect caused by the deceitful substitution through supplementary acts.

§ 2. If the deceitful substitution has been done in order to block the purpose of the petitioner so that one may presume that his contention (non-consummated marriage) is confirmed by the malicious attempt against him, the Ordinary in transmitting the acts to Rome shall clearly explain and declare this circumstance.

§ 3. In most cases it will be best to complete further the acts of the case with due observance of the legal requirements in order to explain the facts more clearly.

3°. Whenever the deceitful substitution is discovered after the acts have been fonvarded to Rome, the Ordinary shall endeavor to send his comment on the matter at once to the Sacred Congregation after having consulted the judge and the *defensor vinculi,* and he shall report all the circumstances of the fact and the presumed cause and occasion of the fraud.

7. In order to forestall the crime of deceitful substitution, the judges and Ordinaries should keep in mind the precepts of Canons 1743, § 3, 1755, § 3, and 2302, and apply them with due regard to the varying facts and circumstances.

In publishing these rules, it is the intention of the Sacred Congregation that they form one set with the rules published on May 7, 1923, which have already brought abundant fruit in the drawing up of the processes on non-consummated marriage. There is justified hope that they will bring still more fruit in the future if these rules are applied with greater exactness in the judicial proceedings, and if their purpose is better understood. To achieve their purpose, it is most important that the parties and the witnesses be truthful. Their good faith is asserted and confirmed by the oath, and those who take it, especially the parties, must know and be firmly convinced that they must be absolutely truthful lest they do an almost irreparable harm to their own souls and perhaps to their children. These things the judge must never omit to explain and inculcate.

Their Eminences the Cardinals of the Sacred Congregation of the Sacraments carefully examined the above rules in plenary session of March 23, 1929, approved them and decreed that they should be published if the Supreme Pontiff consented. His Holiness Pope Pius XI, in the Audience granted to the undersigned Secretary of this Sacred Congregation on March 27, 1929, deigned to approve and confirm all the above.

Given at Rome, from the Office of the same Sacred Congregation, March 27, 1929.

M. Cardinal Lega, Bishop of Tusculum, *Prefect.*

L. S. D. Jorio, *Secretary.*

## IV. FORMULAS OF THE PRINCIPAL ACTS IN CASES OF MATRIMONIUM RATUM NON CONSUMMATUM

### I

petition of the wife (or husband)[1]

*Beatissime Pater,*

*N. N.*, filia ..., e dioecesi ..., civitate ..., annos nata ..., conditione ..., domicilium habens in civitate ..., via ..., sub paroecia ..., ad pedes Sanctitatis Vestrae humiliter provoluta, quae sequuntur exponit:

i In cases wherein the form is always or almost invariably used in Latin, it was deemed more desirable to retain this language.

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Die mense ..., anno ..., oratrix, tunc annum agens ..., praemissis denunciationibus a iure statutis ac ritu civili, matrimonium, in paroeciali ecclesia ..., cum *N. N.*, filio ..., e dioecesi ..., et civitate ..., tunc annorum ..., professione _ _ rite contraxit.

Sed hoc matrimonium, contra oratricis ingenium, ad exitum perductum fuerat ab eius matre, quae omnem movit lapidem ut filiae animum sibi conciliaret; et cum nullum ab eiusmodi nuptiis daretur effugium, oratrix ad matrimonium celebrandum accessit, sperans fore, ut sensim sine sensu amor erga virum enasceretur.

At spem fefellit eventus, nam coniugali consortio vix instituto, vir pravam indolem pandidit, ideoque defectus amoris in aversionem prorupit. Quapropter quindecim ab inito matrimonio diebus elapsis, vir, oratrice relicta, ad paternam domum remeavit; postero autem die, ipsa, urgente matre, virum assequi debuit; cum quo tamen vix quinque diebus transactis, ad matrem reversa est, malens potius mori, quam cum eo intolerabilem vitam ducere.

Tum ex hoc capite vir separationem a civili tribunali petiit atque obtinuit. Oratrix vero, apprime sibi conscia de non secuta matrimonii consummatione, tum ob perversam viri voluntatem, tum ob defectum amoris, imo aversionem ipsius oratricis, ad pedes Sanctitatis Vestrae confugit, Apostolicam dispensationem super matrimonio rato et non consummato misericorditer implorans.

Rationes autem ad petendam dispensationem sunt: 1° invincibilis oratricis aversio erga virum, absque ulla spe reconciliationis; 2° incontinentiae periculum, attenta eius iuvenili aetate; 3° desiderium transeundi ad alias nuptias, eidem nuper oblatas.

Et Deus, etc.

Datum ..., die ..., mensis ..., anno ....

*N. N.* (Subscriptio, si fieri potest, manu ipsius oratricis).

It should be noted that the form contains an imaginary set of facts, and has to be varied according to each individual case.

If the petition is offered by the husband, it shall be made out in a similar manner, *mutatis mutandis,* and shall give a genuine narration of the facts.

### II

LETTER OF THE ORDINARY TO THE PASTOR OR TO SOME OTHER PERSON WHO IS CONSIDERED BETTER QUALIFIED TO SECURE INFORMATION AND EFFECT A RECONCILIATION OF THE MARRIED COUPLE IN THE PARTICULAR CASE

Revmus Ordinarius *N.*, adnexum libellum *N.*, uxoris oratricis, transmitti iubet ad Reverendum *N.*, parochum *N.*, eique committit ut recon-

ciliationem oratricis cum coniuge *N.*, pro viribus et pastorali prudentia, per se aut per alium, curet. Quatenus vero praefati coniuges ad concordiam adduci nequeant, idem parochus distincte instructam hanc Curiam reddat de antecedentibus, concomitantibus et subsequentibus matrimonii celebrationem, nec non de causis petitae dispensationis matrimonii inter eos initi; ac simul de probitate et credibilitate tum viri tura uxoris: et congruit ut allegetur fides de huius matrimonii celebratione ex integro, prout iacet in regesto matrimoniorum.

Interim, etc. Die ...

*N.*, Vic. Gen.
*N.*, Curiae Ep. cancellarius.

If perhaps it is not expedient to issue to the pastor the mandate for the reconciliation of the married couple, it may be committed to another prudent and qualified person (who should be, if possible, a priest).

## I11

### ANSWER OF THE PASTOR WHEN THE PARTIES REFUSE RECONCILIATION

*Ilime ac Revme Domine,*

*N. (mulierem, si eam antea interrogari expediat'),* antea alloqui curavi, quae sui matrimonii vicissitudines exposuit, et suam valetudinem coniugali convictu labefactari, necnon necessitatem dissolvendi matrimonii monstravit. Post cara allocutus sum virum, qui ad cohabitationem restaurandam se paratum exhibuit, sed omnino desperat, ob uxoris pervicaciam.

In reconciliatione non ulterius insistendum censui, cum matrimonium saltem absque amore ex parte mulieris initum videatur, ac verisimilis sit inconsummatio, et aliunde periculum incontinentiae exstet ex parte oratricis, quod ut gravis causa pro dispensatione adducitur. Ex pertractionibus peractis, de probitate et credibilitate utriusque coniugis satis constare videtur, ita ut fides eorum assertionibus praestari possit.

Praesentibus allegatur testimonium de celebratione matrimonii dictorum coniugum, in authentico exemplari.

Datum ex paroecia *N.*, die ...

Obsequentissimus subditus
L. ›l« S. *N.*

This answer also will have to be adapted to the circumstances in

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## IV

REPORT OF THE ORDINARY TO THE SACRED CONGREGATION OF THE SACRAMENTS AND PETITION FOR THE FACULTY TO INSTITUTE THE PROCESS

*Erne ac Revme Domine,*

Transmitto ad Em. Vestram Revmam adnexum libellum, quo mulier xV. dispensationem implorat matrimonii ab eadem contracti cum *N.*, utpote tantum rati; ac simul transmitto documenta *(ut informationem parochi et alia quae habeantur),* nccnon testimonium de celebratione matrimonii, ex quibus colligi potest oratricem fidem mereri. Quapropter cum libellus fundamento niti videatur, illum commendo, humiliter postulans, ut quatenus E. V. visum fuerit, facultas mihi tribuatur conficiendi processum super eiusmodi matrimonio, quod contenditur ratum et non consummatum, facta expressa facultate subdclegandi.

Interim sacram Purpuram reverenter deosculor.

Datum ..., ex Curia Ep.li, die ...

Addictissimus famulus

L. ›$‹ S. *N.*, Episcopus.

*N.*, Curiae cancellarius.

## V

ACT OF SUBDELEGATION M;U)E BY THE ORDINARY AND APPOINTMENT OF OFFICIALS OF THE COURT

Cum Emus ac Revmus Dominus ..., S. R. E. Card. Praefectus S. C. de disciplina Sacramentorum, litteris datis die ..., Nos instructos fecisset de mandato ab eadem S. C. Nobis commisso, ut processum conficiendum curemus ad normam iuris, praesertim *Regularum* eiusdem S. C. diei 7 maii 1923, super asserta inconsummatione matrimonii contracti ab *N.* cum *N.* ..., et causis petitae dispensationis, expresse addita potestate subdclegandi; Nos per praesentes litteras ad eiusmodi processum conficiendum Indicem subdelegamus Revmum D. *N.*, qui sese gerat in omnibus ad tramitem Codicis I. C. et iuxta citatas *Regulas,* nccnon iuxta peculiares instructiones a S. C. in praefatis litteris datas. Simul autem eligimus ac deputamus:

Defensorem vinculi R. D. *N.*

Actuarium R. D. *N.*

Datum ... ex aedibus Nostris, die ... mensis ... anno ...

*N.*, Episcopus.

L. ›k S. *N.*, Cancellarius.

If the gravity of the case or some other difficulty makes it advisable, either by the same decree or in the course of the trial men are to be appointed in a similar letter to take the place of the subdclegatcd judge,

of the *defensor vinculi,* or of the court clerk or notary (with the title of *actuarius substitutus).*

## VI

### CONSTITUTION OF THE TRIBUNAL

*Dioecesis N.*

*Dispensationis Matrimonii N.-N.*

*Quod Contenditur Ratum el non Consummatum*

Sessio *I*

Anno Domini mense _ _ die hora ..., in urbe in aedibus . _ adsunt:

ludex subdelegatus Revmus D. *N.*

Defensor vinculi Rev. D. *N.*

Actuarius Rev. D. *N.*

Revmus ludex communicat:

1) Litteras S. C. de disciplina Sacramentorum, datas die ..., quibus Ordinario *N.* committitur instructio processus in causa super matrimonio quod contenditur ratum et non consummatum inter *N.* et *N.*

2) Litteras Revmi Ordinarii *N.,* datas die ..., quibus *(nisi ipse per se gerat suum munus)* subdelegat officium iudieis eidem Revmo D. *N.;* nec non deputat alios officiales supra scriptos: videlicet ut defensorem vinculi Rev. D. *N.,* et ut actuarium Rev. D. *N.*

3) Supplicem libellum 2V., uxoris oratricis, pro instituendo processu.

Tum Index instructor (nisi *sit ipse Episcopus,* cf. *Regulas,* n. 19) ac singuli ministri tribunalis iusiurandum praestant de suo cuiusque officio rite ac fideliter adimplendo et de secreto servando, formulis adhibitis quae exstant in Appendice *Regularum* S. C. (v. infra nn. VII-IX).

Quibus peractis, ludex decernit ut exemplar libelli intimetur viro, parti conventae, necnon ut idem libellus allegetur actis inquisitionis, liront etiam praefatae litterae S. C. et litterae subdelegationis Revmi Ordinarii.

Item ludex constituit diem ..., horam ..., et aedes ... pro tribunalis proximo conventu, in quo oratrix examini subiiciatur, mandans ut eadem citetur; ac D. iV. deputat ut cursorem, qui schedas citationis afferat.

De hisce omnibus redacta est praesens relatio, quae subscribitur a Revmo ludice subdelegato et a ministris tribunalis.

Die et loco ut supra.

*N.,* Index subdelegatus.

L. i· S. *N.,* defensor s. vinculi.

*N.,* actuarius.

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## VII

### OATH TO BE TAKEN BY THE SUBDELEGATED JUDGE

Ego *N.*, a Revmo Duo Ep. *N.* subdelegatus iudex instructor *(vel* deputatus ut vices geram iudieis instructoris) in processu super matrimonio quod contenditur ratum et non consummatum inter xV. et *N.*, iuro me officium iudicis instructoris rite ac fideliter impleturum, servatis, quantum per me fieri poterit, praescriptionibus C. I. C., ac potissimum *Regulis* a S. C. de disciplina Sacramentorum editis die 7 maii 1923, quavis personarum acceptione posthabita, et secretum servaturum. Sic me Deus adiuvet, et haec sancta Dei Evangclia, quae manibus meis tango.

## VIII

### OATH OF THE *DEFENSOR VINCULI*

Ego *N.*, a Revmo Domino Ordinario xV. defensor vinculi legitime deputatus (rcZ defensor vinculi substitutus), pro instruendo processu super matrimonio quod contenditur ratum et non consummatum inter xV. et xV., mihi munus collatum diligenter et incorrupte expleturum, iuxta praescriptiones C. I. C. et *Regulas* a S. Congregatione de disciplina Sacramentorum editas die 7 maii 1923; et omnia voce ac scriptis deducturum, quae ad matrimonii iura tuenda conferri poterunt, posthabito omni humano respectu; atque officii mei secretum religiose servaturum. Sic me Deus adiuvet, etc.

## IX

### OATH TO BE TAKEN BY OTHER OFFICIALS

Ego xV., iuro me munus actuarii *(seu* actuarii substituti) in processu super matrimonio quod contenditur ratum et non consummatum inter xV. et xV., mihi ab Ulmo et Revmo Domino Ordinario *N.* commissum, rite ac fideliter, iuxta praescriptiones Cod. I. Can. atque *Regulas* S. Congregationis de disciplina Sacramentorum diei 7 maii 1923, in omnibus expleturum, et de rebus quas ratione mei officii cognoscam, secretum omnimode servaturum. Sic me Deus adiuvet, etc.

### DECREE ORDERING THE CITATION OF THE WIFE PETITIONER

Anno Domini ..., die ..., mensis ..., in aedibus palatii episcopalis ..., coram Revmo D. xV. ludice ..., Rev. D. xV. defensore vinculi, meque infrascripto actuario:

Visis litteris Sacrae Congr. de disciplina Sacramentorum diei ...,

quibus Rmo Ordinario ... facultas tribuitur conficiendi processum super asserta inconsummatione matrimonii inter *N.* et *N.*, et causis petitae dispensationis;

Attentis litteris Revmi Ordinarii ..., diei ..., quibus Revmum .V. subdelcgat ad eiusmodi processum instruendum;

Idem ludcx subdelegatus, audito vinculi defensore, ad examen uxoris oratricis procedendum esse decrevit; ideoque dictam uxorem citari mandat, ut comparcat coram praefato ludice, in aula sessionum huius s. Tribunalis, in via ..., num. ..., anno ..., mense ..., die ..., hora ..., ut examen subeat in causa matrimoniali a se intentata.

Simul nuncium dat defensori vinculi, ut ante praedictum diem exhibeat interrogatoria clausa et obsignata, uxori oratrici proponenda; atque ut examini praefatae mulieris, loco, die et hora ut supra, intersit.

*N.*, Index instructor.

L. Φ S. A7., defensor vinculi.

*N.*, actuarius.

Let it be stated once for all that the notary enters in the acts whatever the judge orders and prescribes. The decree by which summonses are issued to the party convened and witnesses is based on the same formula, *mutatis mutandis.*

The judge shall also order that in the meantime the pastors of the wife petitioner, of the husband or party convened, and of the witnesses who are to be examined, shall present testimonial letters or documents in which as accurately as possible and under secrecy they inform the court concerning the moral character, religion and veracity of the married parties and the witnesses, and also concerning other things which seem to be necessary or useful for the correct appraisal of their depositions. The judge may apply to the Diocesan Curia instead of to the pastors for this information.

## XI

### LETTER OF THE JUDGE TO THE PASTORS OF THE PARTIES FOR INFORMATION REGARDING THE PROBITY AND CREDIBILITY OF THE PARTIES AND WITNESSES

*(Sub sccreto)*

Cum ex facultate S. C. de disciplina Sacramentorum diei ..., et ex subdelegatione Revmi Ordinarii huius dioecesis, in hoc Tribunali instruatur causa super asserta inconsummatione matrimonii initi inter ¡V. et .V., et caucis imploratae Apostolicae dispensationis, instante praefata uxore N., neccsse est, ad nonnam *Regularum* eiusdem S. C. diei 7 inaii 1923, ut sedulo investigetur et legitimum testimonium praebeatur de utriusque coniugis ac testium qui inducuntur credibilitate.

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Quapropter infrascriptus Index instructor in eadem causa, praesentibus mandat R. D. *N.*, sponsorum parocho, ut pro pastoralis sui officii sanctitate et sollicitudine, ad rem accurate inquirat et distincte huic Tribunali significet notas de religione et honestate utriusque coniugis ac testium qui inducuntur videlicet ... ; an nempe praecepta religionis adimpleant, an bonis moribus sint imbuti, qua fama gaudeant et an cis credi debeat, etiam eum deponant de rebus quae ipsorum intersint, seu circa assertam matrimonii inconsummationem.

Insuper, pro sua prudentia, idem parochus referre velit de omnibus aliis quae ad utriusque coniugis ac testium depositiones rite aestimandas necessaria et opportuna videantur, ita ut sufficiens plenum testimonium ad praefatam S. Congr. transmitti possit, circa rem quae ad controversum matrimonium pertinet.

Quod si coniuges vel testes vel aliqui eorum non fuerint cogniti, opportunas inquisitiones instituat, ope sacerdotum ecclesiae paroeciali addictorum, vel alius prudentis personae, sibi bene visae, et quidem sub secreto, sed ita, ut congruae et certae notitiae colligantur.

Datum ex aedibus ... die ... anno ...

*N.*, ludex instructor.

L. Φ S. IV., actuarius.

This letter is to be sent secretly. If the married parties live in different parishes, both pastors are to be requested for the specified information. If the parties and witnesses are much better known in some parish other than that wherein they now live, the information must be obtained from this other parish, or from both parishes.

As to the experts, who also must possess probity and credibility, it frequently happens that the same information is demanded concerning them.

### XII

#### INFORMATION GIVEN BY THE PASTOR

Model of the answer to be sent by the pastor if the reports arc favorable to the respective party or parties and witnesses. The text must naturally be changed according to the actual facts in each case.

Quod attinet ad informationes a Revmo Indice instructore in causa ... expetitas litteris dici ..., infrascriptus parochus Ecclesiae *N.* pro suo munere respondet, se IV. uxorem oratricem, in finibus huius paroeciae commorantem, pluribus abhinc annis perspectam habere; ac praesentibus litteris, quatenus sibi constiterit, fidem facit eandem mulierem religione et honestis moribus imbutam esse, ac bona existimatione gaudere, ita ut mendacio obnoxia non existimetur. Quibus attentis, oratrix incapax

periurii putatur, etiam in sui favorem, et credibilis apparet quoad assertionem de inconsummatione sui matrimonii. Ceterum cum idem parochus, occasione porrecti libelli pro huius causae introductione, rogatus a Revmo Ordinario, investigationes peregerit et eum praefata muliere collocutus fuerit, censuit eandem sinceram et veridicam esse.

Quod autem ad virum conventum spectat, etc.

In fidem.

Ex paroecia ..., die ..., anno ...

*N.*, parochus.

L.*S.

If, on the contrary, the information is not favorable, the pastor should give a statement that strictly adheres to the truth, using such words as his prudence suggests according to the circumstances of the case.

If the pastor is not well acquainted with either the married couple, or the witnesses, or the experts, and if he cannot from other sources gather information about them that satisfies his conscience, he shall in his answer to the judge plainly say so, giving the reason for his inability. In that case the judge shall himself request information from other reliable and well-informed persons, or, if he so wishes, he may request information from the Ordinary'.

## XIII

LETTER OF THE JUDGE TO HIS ORDINARY TO OBTAIN INFORMATION, WHEN THE ORDINARY DOES NOT ACT AS JUDGE AND HIS AID MAY BE USEFULLY ENLISTED

*Illnie ac Revme Domine,*

In causa dispensationis matrimonii quae ex subdclegatione facta ab A. T. die ..., in hoc Tribunali instruitur, cum parochus sponsorum, *(vel* testium ..., *vel* peritorum ...) apposite rogatus, responderit se eosdem coniuges *(vel* testes ..., *vel* peritos ...) haud bene cognitos sibi habere, neque informationes tuto haurire aliunde posse, et hoc Tribunal eiusmodi informationes ex aliis fontibus excipere non potuerit, A. T., pro sua ampliore auctoritate et rerum ac personarum cognitione, dignetur directe inquirere de religione, honestate et veracitate partium *(vel* testium, *vel* peritorum), ita ut eorum depositiones seu relationes rite aestimari valeant.

Interim, etc.

Datum - - die ..., anno ...

Addictissimus famulus

L. S. *N.*, Index subdelegatus.

*N.*, actuarius.

# APPENDIX XXI

## XIV

### LEITER OF THE ORDINARY FOR THE GATHERING OF THE AFORESAID EXTRAORDINARY INFORMATION

*(Sub secreto)*

*Ulme Domine,*

Cum ex facultate S. Congr. de disciplina Sacramentorum, in hoc dioecesano Tribunali, ad instantiam uxoris A'., instruatur causa super matrimonio ab eadem muliere inito cum A'., quod asseritur minime fuisse consummatum, et ideo a Summo Pontifice gratia dispensationis efflagitetur; cumque Nobis constiterit te religione et probitate vitae, nec non personarum ac rerum scientia et prudentia pollere, atque tibi praefatam mulierem oratricem *(vel* testis *aut* periti personam) cognitam esse, praesentibus litteris te rogamus ut, pro caritate et obsequio quibus erga Ecclesiam praestas, velis Nobis accuratas et distinctas praebere notitias, secreti lege quidem interposita, de religiositate, honestate et voracitate dictae mulieris *(vel* testis *vel* periti), praesertim in iudiciali et iurata assertione circa assertam matrimonii inconsummationem, ita ut dignoscatur utrum in re tanti momenti fide digna habenda sit necne.

Interim Deus, etc.

Datum ..., die ..., anno ...

*N.*, Ordinarius.

L. ✠ S. *N.*, Cancellarius.

## XV

### SUMMONS OF THE WIFE-PETITIONER IN THE CASE

By order of the Rev. (Very Rev., Right Rev.) N., Judge in the process of marriage which is claimed to be valid but non-consummatcd between N. and N., Mrs. N., residing at No. ..., N. Street, City or Town of N., being the wife and petitioner in the ease, shall personally appear before the aforesaid judge, in the court room of this tribunal, at No. ..., N. Street, City or Town of N., on the ... (day, month, year), at ... o'clock, for the purpose of undergoing examination under oath concerning the case introduced by her.

Given at ... (Town or City), from the court at No. ..., N. Street, the ... (day, month, year).

*N.*, Judge.

L.S. *N.*, Actuary.

Two copies of the summons shall be made, one to be given to the court messenger to be transmitted to the party, according to the precept of Canons 1717 sqq. of the Code of Canon Law and the other to be kept

in the acts. The messenger signs his name to the copy he hands to the party and the date and hour of delivery. Then he returns to the court and signs at the bottom of the copy of the summons kept in the acts his name and that of the person to whom and time at which he delivered the summons, in the manner given in the following form.

### XVI

REPORT OF THE SERVING OF THE SUMMONS BY THE MESSENGER TO BE MADE AT THE FOOT OF THE COPY KEPT IN COURT

Refero me infrascriptum deputatum cursorem Revmae Curiae Episcopalis *N.*, hodie intimasse et reliquisse authenticum exemplar citationis dominae *N.*, in ipsius domicilio, via ..., num. ..., tradendo praefatum exemplar in manus eiusdem dominae *N.* (*vel* personae de eius familia *aut* famulatu) et ad normam can. 1721 ss.

In fidem, etc. Die ..., mense ..., anno ...

*N.*, cursor deputatus.

G

The summons and the report on having served the same shall be drawn up in the same form for the party convened and for others who are to be summoned to appear in court.

### XVII

PRESENTATION BY *DEFENSOR VINCULI* OF THE INTERROGATORY TO BE PROPOSED TO THE PETITIONER

*N.*, in causa assertae inconsummationis matrimonii inter *N.* et *N.* defensor vinculi legitime deputatus, exhibet sequentia interrogatoria, clausa et obsignata, et nonnisi in actu examinis a Indice aperienda, atque instat ut super iisdem examinetur domina oratrix *N.*, in causa a se intentata, servata forma a iure statuta; alioquin protestatur, etc.

Haec cum facultate alia addendi, delendi, corrigendi, etc.

Datum ..., die ...

*N.*, defensor vinculi.

The interrogatories for the examination of the party convened and of the witnesses and experts are to be presented in the same manner.

### XVIII

OATH TO BE TAKEN BY THE PARTIES AND WITNESSES TO TELL THE TRUTH

The judge shall remind the married couple and the witnesses in grave words of the sanctity of the oath before administering it and of the

very serious offense committed by those who violate their oath. He shall also emphasize the special importance of the oath in the case because of the sacredness of the marriage bond and the very evil consequences of perjury in the matter, as is pointed out in the Decree prefixed to the *Hides* for this process. If the judge thinks it advisable in view of the character of the person about to take the oath, he shall remind him of the penalties to which perjurers are subject in the forum of the Church, and which are stated in the Rules of the process (n. 40).

Then the judge addresses the party or the witness as follows:

> "You are to invoke the Name of God in witness of the truth, touching the Holy Gospels, in the following form:
>
> "I, N., swear to tell the whole truth and nothing but the truth, in reference to the articles as well as to the whole matter, just as before God and my conscience I know the truth, and that I will expose it fully and truly without adding, omitting or changing anything. So help me God and these His Holy Gospels which I touch with my hand!"

The witness puts his signature to the oath.

## XIX

### EXAMINATION OF THE WIFE PETITIONER

Sessio ...

In Dei nomine. Amen

Anno Domini ..., die ..., hora ..., in urbe ..., in aedibus ..., coram R. D. *N.*, Indice subdelcgato, adstantibus R. D. *N.*, defensore vinculi, et infrascripto actuario, comparait D. oratrix in causa dispensationis sui matrimonii, pro hac die et hora rite citata.

*General Questions*

1. The judge shall ask of the party her name, surname, father's name, birth, age, religion, state of life, domicile (city, address, parish), and the place of her present residence or sojourn. He then asks whether she fulfills her religious duties.

Then the judge shall command the clerk to read for the information of the party the names of the judge and officials of the tribunal. After this, if practicable in the case, the judge shall endeavor to induce the wife (petitioner) to become reconciled with her husband, proposing to her such reasons as may (according to the character of the persons and the varying circumstances) seem appropriate, basing them especially on

(for instance) the sanctity of the marriage entered into, the assistance of divine grace for sustaining the burdens of marriage, peace of conscience and peace of families, and the difficulties incident to the process for the requested dispensation. He shall diligently inquire what reasons or obstacles are in the way of a reconciliation, striving to remove those obstacles, if possible.

*Particular Questions*

After the general questions, the particular ones (which must be prudently varied according to circumstances) are to be asked. Here are proposed by way of illustration a number of circumstances which should be kept in mind, but not all of them apply to every process; they are to be used according to the subject-matter of the case.

2. *Qu.* Docs the petitioner confirm her petition to the court in all its parts (if necessary, her petition shall be read) ? Has the petitioner employed help and advice, and who has helped her in proposing her case and in drafting the petition?

3. *Qu.* When did the spouses begin company-keeping with the view of marriage, and for how long did this continue?

4. *Qu.* Was the marriage contracted with the consent of the parents and from mutual love?

5. *Qu.* Were the banns published? In what place was the marriage celebrated? Who were present, and was there general rejoicing and celebration?

6. *Qu.* At what time did the married couple come together and sleep in the same room and bed?

7. *Qu.* Did they freely and willingly fulfill their marriage duties and consummate the marriage? (If necessary, the party should be asked whether she really understands in what the consummation of marriage consists.)

8. *Qu.* If they did not consummate marriage then, were there any later efforts made to consummate the marriage? How often, in what manner, with what result?

9. *Qu.* Did the petitioner, when attempting sexual intercourse, at some time experience pain?

10. *Qu.* Is she convinced that the husband completed the copula fully according to the natural law?

11. *Qu.* Were any of the usual external indications of this discovered ?

12. *Qu.* Does she know or suspect the reason or reasons, both remote and proximate, for the alleged non-consummation of the marriage? She should state her opinions, especially whether (e.g.) the reason for the non-consummation was lack of consent to the marriage, or force and

fear under which it was contracted, or aversion between the spouses arising at the very beginning of conjugal life, or impotency either absolute or relative, or any other reason. Any peculiar circumstances connected with attempts to consummate marriage should be told.

13. If non-consummation of the marriage is attributed to infirmity of either party, the following should be asked:

*Qu.* Was one or the other party sick at any time, and what was the illness? Did he or she consult physicians, and who were they? Were medicines taken? For how long a time and with what effect? Are there any statements of physicians or other documents available in reference to that illness?

14. *Qu.* Did the spouses always use the same bedroom and bed?

15. *Qu.* Who was the first to leave the other? For what reason and what was the proximate occasion?

16. *Qu.* Have they begun a civil suit? When?

17. *Qu.* Have they sued in the civil court for separation or divorce? At what time? Who was the plaintiff, what were the reasons, what was the result? Was a final decision rendered?

18. *Qu.* Have the spouses spoken openly or secretly of their marriage difficulties to their parents, blood relations, friends, neighbors? To whom and at what time did they speak concerning the non-consummation of their marriage? If they did speak of it, the wife petitioner in the case should tell the names and addresses of the persons confided in.

19. *Qu.* How and when did the wife learn that a valid non-consummated marriage can be dissolved by the Roman Pontiff?

20. *Qu.* What are the reasons for which she asked the dispensation from the Roman Pontiff, and do those reasons still exist?

21. *Qu.* Does she know whether the other party consents or objects to the petition, and for what reason does she foresee that he will consent or object?

22. She should indicate the witnesses, if possible seven in number, related to her by blood or marriage (otherwise neighbors of good repute or other persons who have knowledge of the affair), who can swear as to her good character and especially as to her veracity in the present controversy. Most of all, she should name those, if there are any, who know the facts upon which the solution of the present question (non-consummation) depends, and who can confirm the circumstances related by the wife. She should give the name, surname, domicile (city, street, diocese and parish), present place of sojourn, and other helpful information concerning these witnesses.

23. *Qu.* (To be asked especially if the defendant refuses to appear or will probably refuse to appear.) Will the wife also designate the

witnesses on behalf of the husband from among his relations by blood or marriage, neighbors, or other persons having information, who probably can give useful testimony in the case?

24. *Qu.* Has she papers or documents, public or private, pertaining to the case? (If the controverted marriage was before the civil court): Can she exhibit an authentic copy of the acts and the sentence of the civil court? In the civil court did the bodily inspection of both parties or of either take place, and, if so, were both a written report and oral depositions given by the experts, and what remarks has she to make concerning the inspection as bearing on the truth of the matter?

25. *Qu.* Does the wife really believe that she still has bodily integrity, and is she willing to submit to bodily inspection by two midwives or two experts, according to the norm of the sacred canons and especially the Rules of the Sacred Congregation of the Sacraments, published on May 7, 1923? If she has lost her virginity, how and at what time did it happen, and can she induce the physician or expert who examined her to testify, being free of the obligation of secrecy, concerning her condition after her definite separation from the husband?

26. After the questioning is finished, the entire deposition shall at the command of the judge be read to her with a clear voice, and then the judge shall ask her whether she has anything to add, to omit, to correct, or to modify.

27. Then she shall be requested to pronounce the oath concerning the truth of the statements and to keep the secret, according to the form given below in η. XX.

After the oath, the testimony is to be subscribed to by the wife, the judge, the *defensor vinculi,* and the actuary.

If the wife does not know how to write, or if she is legitimately impeded (e.g., by an injured hand) from writing, this fact shall be noted in the acts.

If the questioning is not finished in one session, it is suspended and note is to be made in the acts of the cause of the suspension (e.g., "Ob horæ tarditatem, suspensum fuit examen, animo et ordine prosequendi eodem loco, die ..., hora ...").

To the testimony of the party are to be added the testimonial letters requested and obtained concerning her credibility, as was said above.

## XX

### OATH ON THE TRUTH OF THE DEPOSITIONS AND THE OBSERVANCE OF SECRECY

I, N., swear that I have stated the whole truth and nothing but the truth, and that I shall never before the present case is entirely settled

make known either the questions proposed to me or the answers given by me. So help me God and these His Holy Gospels which I touch with my hand.

## XXI

### OATH TO BE TAKEN BY THE INTERPRETER

I, N.» having been appointed interpreter by the Rev. (Very Rev., Right Rev.) Judge in the process on the marriage between N. and N., which is claimed to have remained non-consummated, swear that I shall faithfully fulfill my office by translating with care and exactness word for word the acts and documents of the process, and that, moreover, I shall keep the secret concerning all things of which I obtained knowledge in the process. So help me God, etc.

## XXII

### DECREE FOR THE SUMMONING OF THE PARTY CONVENED

Revmus *N.*, ludex instructor, etc., audito vinculi defensore, in ius vocari mandat *N.*, virum conventum, eique dici diem ..., mensis ..., horam ..., in aedibus ..., in via ..., num. ..., ut iuratum examen subeat in processu ab *N.*, uxore eiusdem viri, intentato, quod in hoc Tribunali conficitur ex mandato S. C. de disc. Sacr., diei ..., super asserta inconsummatione matrimonii dictorum coniugum, et causis Apostolicae quae efflagitatur dispensationis; cum declaratione quod si idem vir conventus, dic et hora praestituta, non comparuerit, neque absentiae excusationem allegaverit, contumax habebitur, et, eo absente, instante defensore vinculi matrimonialis, ad ulteriora in iudicio procedetur.

Datum ..., die ...

*N.*, ludex instructor.

L. S. *N.*, actuarius.

## XXIII

### SUMMONS OF PARTY CONVENED BY EDICT

*Romana*

*Dispensation of the Marriage of N.-N.*

The place of actual residence being unknown of Mr. N. ..., son of ..., ... (state of life), the party convened in this case, who was born in the place commonly' called ..., in the diocese of ..., and who in the year ... lived in the city (town) of ..., at No. ..., ... Street, we hereby cite him peremptorily to appear personally on the ... (day, month, year), at ... o'clock, at the place of this sacred tribunal, at ..., ... Street, before the undersigned judge, to make deposition ac-

cording to the interrogatories to be proposed to him in the case of the alleged non-consummation of the marriage brought by his wife N. for the purpose of requesting from the Apostolic See a dispensation, which ease is being tried in this court by command of the Sacred Congregation of the Sacraments, given on the ... (day, month, year).

If he fails to appear on the day and hour designated, or to give an excuse for absenting himself or for his manner of acting, he shall be considered to be in contempt of court and the case will proceed in his absence.

The local Ordinaries, pastors, priests and faithful who have any knowledge of the domicile or place of actual sojourn of the aforesaid man must endeavor to see, if and in so far as possible, that he be notified of this summons by edict.

Given at ..., the ... day ...

*N.*, Judge.
*N.*, Actuary.

### EXAMINATION OF THE HUSBAND CONVENED

*Session*

The same forms as those for the examination of the wife shall be employed and similar questions may be proposed. However, some questions more adapted to the circumstances of the case are to be added, and others are to be omitted, or an entirely new set of questions may be drawn up, according to the prudence and sagacity of the judge and the *defensor vinculi,* who should demand those declarations which in view of the particular facts and persons in the case are apt to disclose the truth. In reference to the bodily inspection of the man, whether it should or should not be demanded, the precepts of the *Bules* (n. 84, 2-3) are to be applied.

To the party who is examined in the second place some questions should be proposed at the end of his examination concerning statements made by the other party, if the circumstances warrant it, and the party first examined may also be recalled for another examination, as stated in the *Rules* (n. 55).

If the party convened cannot come to the place where the court is sitting, whether he is staying in the same or in another diocese, he should be examined as provided for in the *Rules* (nn. 23-24). The same shall be observed in reference to others who are summoned to court and who find themselves in the same circumstances.

If the party convened does not appear in court, mention is to be made in the acts of his non-appearance and at least of the probable

cause for absenting himself (e.g., whether there is question of contempt of court or impossibility). If there is question of unwillingness to obey because no just cause for absence has been alleged by the party convened, the judge after consultation with the *defensor vinculi* shall consider whether a new summons should be issued to him, or whether other means should be employed—as, for instance, a request to one of his friends or to a person who has great influence over the party convened. The same procedure should be followed in the case of contempt of court on the part of other persons summoned. The documents which prove contempt of court should be inserted in the acts, and contempt of court especially on the part of the party convened should be declared by the judge (efr. *Rules,* n. 2G).

## XXV

### DECREE OF DECLARATION OF CONTEMPT OF COURT COMMITTED BY THE PARTY CONVENED

*Romana*
*Dispensationis Matrimonii N.-N.*

In causa *Romana, Dispens. matr.* initi inter *N.* et *N.*, quam Revmus A7., Index, ex rescripto S. C. de discipl. Sacrament, diei ..., instante uxore, instruendam curat, cum vir *N.*, pars conventa, legitime citatus fuerit *(vel* iterum citatus fuerit ad normam can. 1843, § 2, *vel* opportuna media adhibita fuerint ad eundem arcessendum) iuxta decretum praefati Indicis diei ..., et revera constiterit citationem tempore utili ad notitiam dicti viri pervenisse, iuxta intimationem rite peractam a cursore Curiae die ... *(vel* iuxta syngrapham receptionis per publicos tabelliones delatam), ac simul constiterit eundem conventum, die et hora praescripta, neque dimidia parte horae immediate sequentis, coram indice non comparaisse, et absentiae excusationem afferre neglexisse, neque ullo modo ab ciusmodi inobedientia recedere voluisse, Revmus Index instructor, audito defensore vinculi, eundem virum contumacem declarat; mandans ut, servatis servandis, ad ulteriora procedatur, usque ad conclusionem processus: idque parti contumaci notum fiat *ex officio.*

Ad hoc decretum adiieiuntur documenta contumaciam eiusdem partis conventae comprobantia.

Datum ..., die ...

*N.*, Index instructor.
*N.*, actuarius.

L. * S.

## XXVI

DECREE OF THE SUMMONS OF WITNESSES *SEPTIMÆ MANUS* INTRODUCED BY THE PETITIONER

Revmus *N.*, Index instructor in causa __ audito vinculi defensore, testes septimae manus a muliere oratrice inductos, examini iudiciali subiici mandat, et ideo ad rem citari; videlicet:

1. *N.* (ex. gr. patrem eiusdem oratricis).
2. *N.* (matrem, etc.).
3. ...
4. ...
5. ...
6. ...
7. ...

Datum ..., die ...

*N.*, Index instructor.

L. S. *N.*, actuarius.

To the decree are to be added the testimonials concerning the character and credibility of the witnesses. The summons are to be made out for each of the witnesses in the same manner as described above for the summons of the parties, *mutatis mutandis.* The serving of the summons of witnesses and the report of the service are to be discharged in the same manner as in the summons of the parties.

## XXVII

JUDICIAL EXAMINATION OF THE WITNESS N., INTRODUCED BY THE PETITIONER

*Session__*

The forms for the examination of the petitioner are to be employed. The judge tenders the oath to the witness according to the form given under η. XVHI, and then opens the closed envelope presented by the *defensor vinculi* containing the interrogatories and proposes the questions to the witness.

In reference to the *general questions,* the witness is to be asked:

(1) His name, surname, father's name, birthplace, age, religion, state of life, domicile (city, street address, parish), present place of sojourn;

(2) λ\ hether he is a relation by blood or marriage of either of the married parties and in what degree;

(3) From what time has he known the parties N. and N', and on what occasion or how he got to know them.

In reference to the *particular questions,* the witness should be asked the following :

(4) Does he know of the religion and honesty of the married couple, and does he therefore believe that both have told the truth; or does he at least consider them incapable of committing perjury, even in their own favor, in an affair of such grave importance as the present case?

(5) Does he know whether the parties in question entered into marriage of their own free will and with mutual love?

(6) What signs were there of mutual love both before the marriage and on the day of the marriage and afterwards?

(7) Does he know whether the parties slept together and consummated the marriage?

(8) Does he know for what reason they were unable to consummate the marriage (e.g., through lack of true marriage consent, or because of force and fear under which one or the other contracted marriage, or because of aversion and hatred arising between the parties at the very beginning of conjugal life, or from absolute or relative impotency, or for any other reasons) ?

Note.—It is the duty of the judge and the *defensor vinculi* to obtain from the mouth of the witnesses by appropriate questions information as to the precise cause of the alleged non-consummation of the marriage, and they must search for indications and presumptions which are helpful towards proving the non-consummation of the marriage, according to the *Rules,* Chapter XII.

(9) Did the parties employ any means to overcome the impediments to consummation, and what moans did they use?

(10) Were there quarrels between them, and did one illtreat the other?

(11) What was the reason or occasion for the change of mind and affection towards each other?

(12) For how long a time did they live together, and who first deserted the other?

(13) What is the common opinion, in the case of both the witness and others, concerning the alleged non-consummation?

(14) Does the witness know of other persons, with respect to cither the husband or the wife, who have knowledge concerning this matter and who could testify in this process?

(15) Does he know when the petitioner conceived the idea of asking the Supreme Pontiff for a dispensation from the non-consummated marriage. and from whom the petitioner got knowledge of this power of the Iloly Father?

(16) Is the reconciliation of the married couple possible?

(17) Has the witness anything to add, suppress, amend or modify?

Afterwards, the judge shall order the entire deposition of the party who introduced the witness to be read to the witness and then ask:

(18) Does the witness believe that the statements made in the deposition of the party agree in all things with the truth?

If the judge does not think it wise to have the whole testimony of the party read to the witness, he shall do as stated in the *Rules* (n. 68, $2).

All the oral testimony of the witness that the actuary' has written shall be then read to the witness, and he shall be asked:

(19) Does this record fully' contain the answers made by the witness?

(20) The witness is to be requested to take the oath regarding the truth of the statements made and to keep the secret, according to the form given above (η. XX).

After the oath has been taken, the witness, judge, *defensor vinculi* and the actuary sign the deposition.

The examination of the other witnesses *septima manus,* and of others who are introduced either at the request of a party to the case or *ex officio,* is to take place in like manner.

## XXVIII

### THE JUDGE APPOINTS *EX OFFICIO* THE MIDWBTS OR PHYSICIANS AND A MATRON FOR THE BODILY INSPECTION OF THE WIFE

Die ..., mense ..., anno ..., in processu super matrimonium quod contenditur ratum et non consummatum inter *N.* et *N.*

Revmus *N.,* Index instructor, audito defensore vinculi, decrevit;

Procedatur ad legalem inspectionem corporis mulieris *N.,* uxoris oratricis; et ad hoc eligantur, prout praesenti decreto eliguntur, in obstetrices *N.* et iV. *(vel* in peritos medicos *N.* et *N.)* ; in matronam *N.*

Idque eis notificetur, et moneantur ut die ..., mense ..., hora ..., se sistant in aedibus ..., via ..., n. ..., ad memoratam inspectionem peragendam, iuxta C. I. C. et *Regulas* S. C. de disc. Sacr., diei 7 inaii 1923.

Quod tum praefatae *N.,* mulieri oratrici, tum defensori vinculi significetur.

*N.,* Index.

L. S. *N.,* actuarius.

Concerning the question whether or not the judge should order the bodily inspection, the *Rules* (nn. 84-86) are to be consulted.

## APPENDIX XXI

Regarding the qualifications required in those who are to be appointed as midwives or experts, *Rules* 87-89 are to be consulted; in reference to the qualifications of the matron, cfr. *Rules,* n. 91. If the case calls for an inspection of the husband, the decree by which two experts are appointed for that inspection is to be drafted in like manner.

### XXIX

OATH TO BE TAKEN BY THE MIDWIVES OR PHYSICIANS AND THE MATRON

The judge shall remind the midwives or experts and the matron of the gravity of the oath, especially in processes of this nature, as pointed out in the Decree.

Then the midwives or physicians take the following oath (the words referring to each are to be changed accordingly), touching the Holy Gospels:

> I, N., appointed midwife *ex officio* (the physician says: expert *ex officio)* to make the canonical bodily inspection of the woman N'., swear that I shall faithfully discharge the office committed to me and shall investigate and inquire into all things which, from an examination made according to the principles of the medical science, shall seem to me to argue in favor of or against the non-consummation of the marriage, following especially the precepts of Chapter XIII of the *Rules* of the Sacred Congregation of the Sacraments, issued on May 7, 1923. I shall, moreover, both in the written report and in the oral questioning, expose all things according to the truth, and shall also keep the secret. So help me God and these His Holy Gospels which I touch with my hand.

In like manner, touching the Holy Gospels, the matron swears:

> I, N., having been appointed *ex officio* to assist at the bodily inspection of the woman N., swear that I shall faithfully discharge my office, observing especially the precepts of Chapter XIII of the *Rules* of the Sacred Congregation of the Sacraments, issued on May 7, 1923, and shall guard especially that no fraud is committed and that the rules of modesty shall be perfectly observed. Furthermore, that I shall in the oral questioning expose all things truthfully, and that I shall keep the secret. So help me God and these His Holy Gospels which I touch with my hand.

Concerning the procedure to be observed in the bodily inspection

and the manner of performing the same, the *Rules* (nn. 91-93) shall be consulted.

If the judge doubts whether the midwives are sufficiently instructed, he shall employ a competent physician to instruct them in their duties.

The inspection must be performed by each midwife or physician individually and separately, observing the precepts of the *Rules* (n. 93).

After the inspection has been made, each midwife or physician shall make a separate written report and express his or her opinion, which report and opinion is to be handed to the judge within the interval specified by him, and the entire report and opinion of each shall be included in the acts of the case.

The judge shall appoint the place, day and hour for the oral examination of the experts and the matron.

## XXX

### ORAL EXAMINATION OF MIDWIVES OR PHYSICIANS

In the year ..., before N'., the judge, and in the presence of N'., *defensor vinculi* and N., actuary, appeared N'., appointed midwife (the form begins in the same manner as the form for the examination of the wife, *mutatis mutandis).*

The judge may make the midwife or physician again take the oath to tell the truth if he so desires. Then he opens the sealed envelope of the *defensor vinculi* which contains the articles or points for the examination which the *defensor vinculi* should take chiefly from the written reports made by the midwives or physicians, according to the general and particular circumstances and difficulties which were of course to be noted in the case of the actual inspection.

Those points, besides those which are noted in the form of questions given below, must be taken from the published Instruction of the Holy See, namely, the Instruction of the Sacred Congregation of the Council, "Cum moneat glossa," August 22, 1840; the Instruction of the Holy Ofiice, "Index ad hoc deputatus," in the year 1858, and the Instruction of the Holy Office (to the Bishops of the Oriental Rites), "Quemadmodum matrimonii feedus," in the year 1883, title VI, art. 5; and from the consultation of an expert regarding the difficulties of some peculiar case.

After the general questions have been asked, the judge shall propose the above-mentioned points to the midwife or physician, which points may be the same as in the following questions. To these the judge shall add others *ex officio,* as the case may require, and he shall take care to question them concerning the doubts and ambiguities which arise in the ven' examination.

# APPENDIX XXI

(1) Is the expert (physician, midwife) an intimate friend or relation of the wife or her husband?

(2) How long has he known them, and how did the acquaintance originate?

(3) Docs he confirm under oath the report in all its parts which he wrote concerning the bodily inspection of the woman?

(4) Has he anything to add to the report, or to correct, or to change?

(5) Has he made the inspection as well as the writing of the report by himself and independently of the other expert?

(6) Was the woman given a bath in tepid water and for how long?

(7) In what manner did he proceed in the inspection?

(8) Did he inspect the signs which are given by medical science as signs of integrity or loss of virginity?

(9) On what arguments does he chiefly rely for the opinion expressed in his report?

(10) Is there any suspicion of fraud, and especially is there perhaps any reason to fear that some artifices of the medical science were employed to simulate integrity?

(11) Has the woman suffered—especially during the time of cohabitation with her husband—from some illness, defect, or disorder which might have had an influence on the conjugal relations? Can or cannot such ailment be cured?

(12) (If necessary), how can his opinion be reconciled with the contrary opinion of the other expert, or with the contrary assertion of one or both married parties (which statements are read to the one who is being questioned)?

Note.—The judge may submit the reports made by the midwives or by the physicians to the examination of another expert or physician, if he thinks it opportune; or he may follow the other courses mentioned in the *Rules* (n. 93, $ 2).

(13) What has the expert noticed about the general constitution of the wife, and about her temperament and her psychic state?

(14) Has he learned anything to the point from the woman herself? What?

(15) (If practical in the case), does he know anything of the physical condition of the other party (the husband) that is to the point, and is this opinion actually confirmed or weakened by the knowledge which has been gained in the process about the condition of the husband (parts of process referring to physical condition of husband are to bo read)?

(16) To what cause does the expert think the alleged non-consummation of the marriage is to be attributed in the case?

(17) What other tests, if any, should be made to ascertain the truth?

(18) (After his deposition has been read to him), has he anything to add, delete, correct or modify?

After the expert has sworn to the truth of the statements made and to keep the secret, the usual signatures are attached to the deposition.

## XXXI

### ORAL EXAMINATION OF THE MATRON

The forms as given in the oral examination of the experts (midwives, physicians) are to be observed with the necessary changes.

After the judge, if he so desires, has again tendered the oath to the matron to tell the truth, and after he has asked the general questions, the special questions are to be asked, chiefly the following:

(1) Did the matron assist at the inspection uninterruptedly?

(2) Was the bath prepared and taken, and how? How long did the woman remain in it?

(3) Did the physicians or midwives, observing the rules of modesty, diligently perform the bodily inspection according to the directions given to them?

(4) Could any fraud or deceit have taken place?

(5) Has the matron any remarks to make about the matter?

(6) Has she anything to add, delete, correct or vary in her testimony?

If the bath was not given, the second question is, of course, to be omitted.

After the matron has taken the oath as to the truth of her statements and to keep the secret, the signatures are attached in the usual manner.

## XXXII

### INSPECTION OF THE HUSBAND

If the inspection of the husband is required (according to the precept of the *Rules,* n. 84, §2), two physicians must be appointed *ex oflicio,* who must take the double oath faithfully to fulfill their office and to keep the secret, as was said concerning the midwives or physicians appointed for the inspection of the woman (the necessary changes in the form of the oath being made). Then the judge shall instinct the physicians that each shall make the inspection of the man separately with due modesty, and that they inquire about those things noted in the *Rules* (n. 95).

After the inspection, each physician separately shall make a written report and give it to the judge. Thi-e reports are to be included in

the acts, and from them the *defensor vinculi* shall draw up his interrogatory.

An oral examination of each physician separately is to be made. The judge may, if he sees fit, demand that the physician again take the oath to tell the truth, and after the general questions shall be proposed the special ones based on the published Instruction of the Holy See mentioned above undor η. XXX, as the circumstances of the case may require.

In general, the following points based on the *Bules* (n. 95) should be kept in mind:

(1) Did the physician make use of licit and decent methods in his inspection ?

(2) What reasons or indications did he find which seem to prove virile potency or to exclude it?

(3) Has the man suffered from some disease that might have had an influence on the conjugal relations? What was this disease?

(4) Has this disease existed for a long time, or is it recent? Is it natural or acquired? Is it curable or not without danger to life?

The judge after consulting the *defensor vinculi* shall do everything possible to discover the truth, following the *Bules* and the suggestions given in connection with the examination of the experts appointed for the inspection of the woman, *congrua congruis referendo.*

After the judge has administered the oath on the truth of the statements and to observe secrecy, the usual signatures are attached to the deposition.

## XXXIII

### CONCLUSION OF THE CASE

In processu super matrimonio quod contenditur ratum et non consummatum inter *N.* et *N.,*

Interrogatis tum partibus, quae responderunt se nihil aliud habere quod deducant ; tum defensore vinculi, qui declaravit sibi nihil amplius inquirendum superesse;

Perpensis omnibus actis, partium, testium ac peritorum depositionibus, relationibus et adnexis documentis;

Cum causa, attentis personarum ac rerum adiunctis, satis instructa sit, Index decernit clausam esse instructionem processus, et omnia acta, in authentico exemplari, una cum *voto scripto Illini ac Bevmi Episcopi,* et *defensoris vinculi,* transmittenda esse ad S. Congregationem de disc. Sacr.

Ex aedibus ..., die ...

*N.,* Index.

L S. *N·,* actuarius.

The *defensor vinculi* shall not vote in favor of the petitioner unless the case is evident, but shall raise objections both concerning the order of procedure and the merits of the case, refraining however from sophistical arguments.

## XXXIV

### ATTESTATION REGARDING THE AUTHENTICITY OF THE COPY OF THE ACTS

Facta collatione praesentis actorum exemplaris cum omnibus actis et documentis originalibus existentibus in archivo huius Tribunalis, testor ego infrascriptus constare de fideli transcriptione et integritate eiusdem exemplaris, quod transmittitur ad Sacram Congregationem de disciplina Sacramentorum.

Datum ..., die ...

In fidem, etc.

ludex.

k ® θ* actuarius.

# APPENDIX XXII

## Rules to Be Observed in the Canonical Trials Concerning the Nullity of Holy Orders or Freedom from the Obligations Annexed to Them

(Cfr. Canons 1993 sqq.)

The entire issue of the *Acta Apostolicæ Sedis* of December 5, 1931, is devoted to rules for the canonical process in cases against Sacred Orders. The Sacred Congregation of the Sacraments states that the present rules of procedure are in substance the same as the Holy See published on April 27, 1923, for the process in which married parties petition a dispensation from the marriage bond because of non-consummation of the marriage (cfr. Appendix XXI). Because Canon 1995 prescribes that all the procedural rules of the Code and the special rules for matrimonial cases should be observed also, with due adaptation of the rules, in the cases against Sacred Orders, the Sacred Congregation of the Sacraments has adapted those rules to the process to be conducted when a cleric in major orders claims that his ordination was null and void, or that he should not be held to the obligations of the major orders for some reason (e.g., because he was forced into the ordination by undue influence of a parent or someone else who had influence or authority over him). For the guidance of the local Ordinaries who might be ordered by the Holy See to construct the process as delegates of the Holy See (for those cases are reserved to the Holy See), the entire procedure is published as it is to be conducted step by step, and all the necessary formulas are given, beginning with the petition of the cleric to be addressed to the Supreme Pontiff and mailed to the Sacred Congregation of the Sacraments, the summons of witnesses, questions to be proposed to the witnesses and the party, conclusion of the case and attestation of judge and notary of exact and faithful copy that is to be sent to the Sacred Congregation. The process occupies thirty-six pages in the *Acta Apostolicæ Sedis,* and some knowledge of the document and where to find it will be useful in case a priest is ordered by the chancery office to take part in the proceedings (e.g., the pastor of the cleric plaintiff in the case

and the pastor of the witnesses who, according to the procedure, are to make statements concerning the probity and credibility of those persons).

In the first place, the document states that nobody other than the Sacred Congregation of the Sacraments is competent to try the cases of invalidity of Sacred Orders or the claim to the right to be relieved of celibacy and other obligations annexed to Sacred Orders. No inferior judge can try those cases without delegation of the Apostolic See.

If the invalidity of Sacred Orders is in question, the cleric who claims to have been ordained invalidly, and the Ordinary whose subject the cleric is, and the Ordinary in whose diocese the Sacred Order claimed to be invalid was conferred, have equal right to bring the suit. If there is question of suing for freedom from the obligations annexed to Sacred Orders, the cleric alone has the right to petition for a declaration that he is free from those obligations.

The petitioner makes his written request to the Holy Father, addressing him in the letter with the customary salutation, "Beatissime Pater." The envelope containing the petition to the Pope is to be addressed to the Cardinal Prefect of the Sacred Congregation of the Sacraments. Λ full and truthful statement of the facts in the case and the reason why recourse is had to the Holy See must be made. The petition must bear day, month and year, and the diocese of origin or diocese of actual stay of the petitioner. Though the cleric may send the petition directly to the Sacred Congregation, the document urges that it be sent through the cleric's proper Ordinary, who should add the information he himself has obtained concerning the case. The proper Ordinary is the one in whose diocese the petitioner is incardinated, and in the case of religious who have been dismissed the Ordinary of the diocese of origin or of domicile.

After the Sacred Congregation has received the petition, it usually writes to the proper Ordinary directing him to make an extrajudicial investigation, calling and examining the petitioner and some witnesses without a formal summons and without tendering the oath. All this is to be put in writing and the bishop's own opinion or impression in the matter added to the investigation. If the Sacred Congregation is of the opinion that the cleric has reasons that arc worth considering, it usually issues letters of delegation to the Ordinary for the conducting of the trial according to the rules given in the present document.

The Ordinary is to start the case immediately and set about appointing the judges and other officials of the court. He may choose for this purpose the constituted officials of his Curia or also others,

provided he observes the precepts of Canons 1995 sqq. If greater freedom is granted him in the letters of delegation, he must see that all persons appointed have the required qualifications (cfr. Canon 1607, §1). A *defensor sacra ordinationis* must be appointed, and he must be summoned and heard at each and every act in the case. A clerk or notary also is to be appointed for the writing of the process ox- acts of the case, according to the precept of Canon 1585.

If the Ordinary has received the faculty to subdelcgate, and wishes to appoint another to act as *iudex instructor,* he must do so in writing and mention the fact that he is delegated in the case and has received the right to subdelegate from the Holy See. Neither the Ordinary himself nor the priest subdelegated by the Ordinary should act as judge if he has a special interest in the case because of blood relationship, affinity, guardianship, intimate friendship, great enmity, hope of gain or fear of loss. The same applies to the *defensor sacra ordinationis.* If the Ordinary himself desires to act as judge and the plaintiff objects and proves that the Ordinary is prejudiced against him, he must subdelcgate another as judge if the faculty was given him; otherwise he must refer the matter to the Sacred Congregation that committed the case to the bishop. If objection of prejudice is raised and proved against the subdelegated judge, the Ordinary must choose another as subdelegated judge, or, if he does not have the faculty to subdelcgate, refer the matter to the Sacred Congregation. In the course of the trial or immediately at the beginning when the court is organized, the Ordinary may appoint substitutes for any of the officials of the court in order that they may take the place of the ones first appointed in case they are impeded or prejudice is proved against them. All officials of the tribunal must at the first session of the court take the oath to fulfill their office faithfully and to observe secrecy; the Ordinary, even when he acts as judge, does not take the oath.

The rest of the procedure follows the general outline of procedure in ecclesiastical trials as contained in the Fourth Book of the Code of Canon Law, except that the rules are more detailed and applied to the particular case (i.e., Sacred Orders). There are some very special points—for example, n. 51 of the document directs that to all witnesses introduced by the plaintiff the testimony of the plaintiff is to be read after their own testimony has been given, and that each express himself as to the truth of the assertions of the plaintiff and whether he considers them worthy of belief.

When the whole process is finished, and, after the *defensor sacra ordinationis* has studied all the evidence in the case and the acts of the formalities required by the present document and has given his

opinion and conclusions to the judge, the latter shall pronounce sentence. The sentence is not a judicial one but after the manner of a disciplinary pronouncement. The final judgment is reserved to the Sacred Congregation of the Sacraments, to which all the evidence and the acts of the process are to be sent. If the Ordinary did not himself act as the *index instructor* in the case, he shall with the documents send his own opinion on the case to the Sacred Congregation. The original acts of the evidence and the formalities are to be preserved in the episcopal archives, and an authentic copy is to be sent to the Sacred Congregation *(Acta Ap. Sedis,* XXIII, 457-492).

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